

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

TODD MICHAEL SCHULTZ,
Plaintiff(s),

vs.

MICHAEL CHRISTOPHER THOMPSON,
Defendant(s).

Case No:
2:23-cv-03452-JAK-MRW

**STANDING ORDERS FOR CIVIL CASES
ASSIGNED TO JUDGE JOHN A.
KRONSTADT**

This Order incorporates the Court's:

1. Initial Standing Order for Civil Cases Assigned to Judge John A. Kronstadt
(Exhibit A);
2. Initial Standing Order for Patent Cases Assigned to Judge John A. Kronstadt
(Exhibit B);
3. Order Setting Rule 16(b)/26(f) Scheduling Conference (Exhibit C);
4. Schedule A: Schedule of Pretrial and Trial Dates re Order Setting Rule 16(b)/26(f)
Scheduling Conference for Civil Cases, Patent Cases and ERISA Cases (Exhibit C-1);
5. Order Re Jury/Court Trial for Cases Assigned to Judge John A. Kronstadt
(Exhibit D);
6. Standing Protective Order for Cases Assigned to Judge John A. Kronstadt

1 (Exhibit E);

2 7. Format for Evidentiary Objections (Exhibit F); and

3 8. Format for Summary Chart for Motions for Attorney's Fees (Exhibit G). Please read
4 each Order carefully as they differ in some respects from the Local Rules.

5 Counsel are advised that the Court, at any time, may amend one or more of its
6 Standing Orders. It is the responsibility of counsel to refer to this Court's Procedures
7 and Schedules found on the website for the United States District Court, Central District
8 of California (www.cacd.uscourts.gov) to obtain the operative order.

9 The Court thanks the parties and their counsel for their anticipated cooperation in
10 carrying out these requirements.

11
12
13 Dated: May 9, 2023



14 JOHN A. KRONSTADT
15 UNITED STATES DISTRICT COURT
16
17
18
19
20
21
22
23
24
25
26
27
28

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

Plaintiff's Name(s),

Plaintiff(s),

vs.

Defendant's Name(s),

Defendant(s).

Case No.: _____ JAK (x)

**INITIAL STANDING ORDER FOR CIVIL
CASES ASSIGNED TO JUDGE JOHN A.
KRONSTADT**

This case has been assigned to the calendar of Judge John A. Kronstadt. Both the Court and counsel bear responsibility for the progress of this litigation in federal court. To "secure the just, speedy, and inexpensive determination" of this case, as called for in Fed. R. Civ. P. 1, all parties or their counsel are ordered to become familiar with the Federal Rules of Civil Procedure, the Local Rules of the Central District of California, and this Court's Standing Orders.

THE COURT ORDERS AS FOLLOWS:

1. Service of the Complaint

The plaintiff shall promptly serve the complaint in accordance with Fed. R. Civ. P. 4 and file the proofs of service using the Court's Civil Form CV-001 pursuant to [Local Rule 5-3](#). Although Fed. R. Civ. P. 4(m) does not require the summons and complaint to be served for 90 days, the Court expects service as soon as service can reasonably be

1 accomplished. The Court will require plaintiff to show good cause to extend the service
2 deadline beyond 90 days.

3 **2. Presence of Lead Counsel**

4 Lead trial counsel shall attend any scheduling, pretrial, or settlement conference
5 set by the Court unless engaged in trial. Should that occur, counsel are to file a request for
6 alternate or co-counsel to appear with a proposed order. The Court does not permit special
7 appearances; only counsel of record may appear at any proceeding.

8 **3. Ex Parte Applications**

9 Ex parte applications are solely for extraordinary relief and should be used with
10 discretion. See *Mission Power Eng'g Co. v. Cont'l Cas. Co.*, 883 F. Supp. 488 (C.D. Cal.
11 1995). Ex parte applications that fail to conform to [Local Rule 7-19](#), including a statement
12 of opposing counsel's position, will not be considered, except on a specific showing of
13 good cause. Concurrently with service of the ex parte papers by electronic service and
14 telephonic notice, counsel shall also serve the moving party by either facsimile, email, or
15 personal service, and give notice to the moving party that opposing papers must be filed
16 no later than 24 hours (or one court day) following service. If counsel do not intend to
17 oppose the ex parte application, counsel must inform the Courtroom Deputy Clerk by
18 telephone or email as soon as possible.

19 **4. Continuances or Extensions of Time**

20 This Court is very committed to adhering to all scheduled dates. In general, this
21 makes the judicial process more efficient and less costly. Changes in dates are disfavored.
22 Trial dates set by the Court are firm and will rarely be changed. Therefore, any request,
23 whether by application or stipulation, to continue the date of any matter before this Court
24 must be supported by a sufficient basis that demonstrates good cause why the change
25 in the date is essential. Without such compelling factual support, requests to continue
26 dates set by this Court will not be approved. Counsel requesting a continuance must
27 electronically file any application or stipulation with a proposed order, including a
28 detailed declaration of the grounds for the requested continuance or extension of time.

The Court will not consider any request that does not comply with the Local Rules and this Order. Proposed stipulations extending scheduling dates become effective only if, and when, this Court approves the stipulation as presented to, or modified by, the Court, and an associated order is entered. Counsel should avoid submitting requests for a continuance less than at least seven (7) calendar days prior to the scheduled date that is the subject of the request.

Any request or stipulation to continue shall incorporate the modified deadlines in addition to the deadlines that remain unchanged. Each proposed modification should be entered above the corresponding deadline, within the same cell as the corresponding current deadline. The modified deadline should be placed between brackets (i.e., “[Date]”). For example:

[March 11, 2020] Jan 1, 2019	Non-Expert Discovery Cut-Off
---------------------------------	------------------------------

5. TROs and Injunctions

Parties seeking emergency or provisional relief shall comply with Fed. R. Civ. P. 65 and [Local Rule 65-1](#). The application shall include a proof of service which complies with the Court’s requirements for ex parte applications or a separate request for service to be excused. The Court will not rule on any application for such relief for at least 24 hours after the party subject to the requested order has been served, unless service is excused. Counsel shall call the Courtroom Deputy Clerk no later than 30 minutes after e-filing the documents. Additionally, on the day the documents are e-filed, counsel shall deliver a courtesy copy on the 4th Floor of the First Street Courthouse.

6. Cases Removed from State Court.

All documents filed in state court, including documents appended to the complaint, answers, and motions, must be re-filed in this Court as a supplement to the notice of removal. See 28 U.S.C. § 1447(a) and (b). If the defendant has not yet answered or filed

1 a motion in response to the complaint, the answer or responsive pleading filed in this
 2 Court must comply with the Federal Rules of Civil Procedure and the Local Rules.
 3 If, before the case was removed, a motion or demurrer in response to the complaint was
 4 pending in state court, it must be re-noticed in this Court in accordance with [Local Rule 6-1](#)
 5 and [Local Rule 7](#). Counsel shall file with their first appearance a Notice of Interested
 6 Parties in accordance with [Local Rule 7.1-1](#).

7 If an action is removed to this Court that contains a form pleading, *i.e.*, a pleading in
 8 which boxes are checked, the party or parties utilizing the form pleading must file an
 9 appropriate pleading with this Court within 30 days of receipt of the Notice of Removal.
 10 The appropriate pleading referred to must comply with the requirements of Fed. R. Civ. P.
 11 7, 7.1, 8, 9, 10 and 11.

12 **7. Status of Fictitiously Named Defendants**

13 This Court intends to adhere to the following procedures where a matter is removed
 14 to this Court on diversity grounds with fictitiously named defendants. See 28 U.S.C. §§
 15 1441 and 1447.

16 **a.** Plaintiff is expected to ascertain the identity of, and serve, any fictitiously named
 17 defendant, within 90 days of the removal of the action to this Court.

18 **b.** If plaintiff believes (by reason of the necessity for discovery or otherwise) that
 19 fictitiously named defendants cannot be fully identified within the 90-day period, an ex parte
 20 application requesting permission to extend that period to effectuate service may be filed
 21 with this Court. Such an application shall state the specific reasons for the requested
 22 extension of time, including a description of all efforts made up to that time to identify
 23 and serve such person(s). The ex parte application shall be served upon all appearing
 24 parties, and shall state that appearing parties may file written comments within seven (7)
 25 days of the filing of the ex parte application.

26 **c.** If plaintiff wants to substitute a defendant for one of the fictitiously named
 27 defendants, plaintiff shall first seek the consent of counsel for all defendants (and counsel
 28 for the fictitiously named party, if that party has separate counsel). If consent is withheld

1 or denied, plaintiff should file a motion on regular notice. The motion and opposition should
2 address whether the matter should thereafter be remanded to the Superior Court if
3 complete diversity of citizenship would no longer be present as a result of the addition
4 of the new party. See U.S.C. § 1447(c) and (d).

5 **8. Discovery**

6 **a. Discovery Matters Referred to Magistrate Judge**

7 All discovery matters, including all discovery motions, are referred to the assigned
8 United States Magistrate Judge. The Magistrate Judge's initials follow the District Judge's
9 initials next to the case number on this Order. All discovery-related documents must
10 include the words "DISCOVERY MATTER" in the caption to ensure proper routing.
11 Counsel are directed to contact the Magistrate Judge's Courtroom Deputy Clerk to
12 schedule matters for hearing. Please deliver mandatory chambers' copies of discovery-
13 related papers to the Magistrate Judge assigned to this case rather than to this Court.

14 In accordance with 28 U.S.C. § 636(b)(1)(A), the Court will not reverse any order
15 of the Magistrate Judge unless it has been shown that the Magistrate Judge's order is
16 clearly erroneous or contrary to law.

17 Any party may file and serve a motion for review and reconsideration before this
18 Court. See [Local Rule 7-18](#). The moving party must file and serve the motion within 14
19 days of service of a written ruling or within 14 days of an oral ruling that the Magistrate
20 Judge states will not be followed by a written ruling. The motion must specify which
21 portions of the ruling are clearly erroneous or contrary to law and support the contention
22 with points and authorities. Counsel shall deliver a conformed copy of the moving papers
23 and responses to the Magistrate Judge's Courtroom Deputy Clerk at the time of filing.

24 **b. Compliance with Fed. R. Civ. P. 26(a)**

25 Unless there is a likelihood that, upon motion by a party, the Court would order that
26 any or all discovery is premature, counsel should begin to conduct discovery actively
27 before the Scheduling Conference. Discovery is not stayed prior to the Scheduling
28 Conference or after dates have been set unless otherwise ordered by the Court. At the

1 very least, the parties shall comply fully with the letter and spirit of Fed. R. Civ. P. 26(a)
 2 and thereby obtain and produce most of what would be produced in the early stage of
 3 discovery, because at the Scheduling Conference the Court will impose firm deadlines
 4 to complete discovery.

5 **9. Motions**

6 **a. Time for Filing and Hearing Motions**

7 Motions shall be filed in accordance with [Local Rule 6-1](#) and [Local Rule 7](#). In general,
 8 this Court hears motions on Mondays, beginning at 8:30 a.m. If Monday is a national
 9 holiday, motions will be heard on the following Monday. It is not necessary to clear a
 10 hearing date with the Courtroom Deputy Clerk prior to the filing of a motion, but counsel
 11 shall review the Court's Closed Motion Dates prior to selecting a date. Motion dates are
 12 closed when the Court's calendar is full and, therefore, counsel shall not assume that a
 13 motion date(s) is available.

14 The Court does not require a proposed order to be e-filed with any motion unless
 15 otherwise directed by the Court. A separate order will issue.

16 **b. Briefing Motions**

17 **Please read this section carefully. This Court's schedule for briefing motions**
 18 **differs significantly from the briefing schedule set by the Local Rules.**

19 Any motion that is filed and set for a hearing to be held fewer than 35 days from the
 20 date of the filing of the motion shall be briefed pursuant to [Local Rule 6-1](#) and [Local Rule 7](#).
 21 Otherwise, motions shall be briefed according to the following schedule:

22 (a). Any motion that is filed and set for a hearing between 35 and 70 days from the
 23 date of the filing of the motion: (i) any opposition must be filed no later than 14 days after
 24 the filing of the motion; and (ii) any reply must be filed no later than 21 days after the
 25 filing of the motion.

26 (b). Any motion that is filed and set for a hearing more than 70 days from the date of
 27 the filing of the motion: (i) any opposition must be filed no later than 21 days after the filing
 28 of the motion; and (ii) any reply must be filed no later than 35 days after the filing of the

1 motion.

2 The Court will permit the parties to stipulate, without a court order, to a briefing
3 schedule for any motion that is set for a hearing to be held more than 70 days from the
4 hearing date it was filed so long as the reply is filed no later than five (5) weeks prior to
5 the hearing date. A stipulation regarding the agreed-upon briefing schedule shall be filed
6 with the Court within seven (7) calendar days from the date the motion is filed. The
7 stipulation shall include in the caption "STIPULATED PER STANDING ORDER."

8 **c. Pre-Filing Requirement To Meet and Confer**

9 Counsel must comply with [Local Rule 7-3](#), which requires counsel to engage in a
10 pre-filing conference "to discuss thoroughly . . . the substance of the contemplated motion
11 and any potential resolution." Counsel should discuss the issues to a sufficient degree
12 that if a motion is still necessary, the briefing may be directed to those substantive
13 issues requiring resolution by the Court. Counsel should resolve minor procedural or
14 other non-substantive matters during the conference. The *in propria persona* status of
15 one or more parties does not alter this requirement.

16 **d. Length and Format of Motion Papers**

17 Memoranda of points and authorities shall not exceed 25 pages and all footnotes
18 shall be in the same type size pursuant to [Local Rule 11-3](#). Oppositions shall not exceed
19 25 pages and any reply shall not exceed 10 pages. All motion papers shall be filed
20 pursuant to [Local Rule 11-3](#) and [Local Rule 11-6](#). Only in rare instances and for good
21 cause shown will the Court grant an application to extend these page limitations. No
22 supplemental brief shall be filed without prior leave of Court.

23 If documentary evidence in support of or in opposition to a motion or application
24 exceeds 100 pages, the documents shall be placed in a binder, with an index and with
25 each item of evidence separated by a tab divider. If such evidence exceeds 200 pages,
26 the documents shall be placed in a Slant D-Ring binder, with an index and with each
27 item of evidence separated by a tab divider.

28 \\\

1 Counsel shall adhere to [Local Rule 5-4.3](#) with respect to the conversion of all
2 documents to a PDF so that when a document is e-filed, it is in the proper size and
3 format that is PDF searchable. Further, all documents shall be filed in a format so that
4 text can be selected, copied, and pasted directly from the document.

5 **e. Mandatory Chambers' Copies**

6 Mandatory chambers' copies are to be submitted pursuant to [Local Rule 5-4.5](#).
7 The Court requires copies of only: (i) initial pleadings (complaints, counterclaims, cross-
8 claims), (ii) Joint Rule 16(b)/26(f) reports with schedule of pretrial and trial dates,
9 (iii) motion papers (motions, oppositions, replies, non-oppositions, and any document
10 relating to such), (iv) trial documents (joint statement of the case, proposed voir dire,
11 jury instructions, verdict form, joint exhibit list, joint witness list, and any disputes relating
12 to such), (v) ex parte applications relating to a temporary restraining order, and (vi)
13 presentation materials for patent cases. Mandatory chambers' copies must be delivered
14 to the Clerk's Office, located in the First Street Courthouse, no later than 12:00 P.M. on
15 the day following the filing of the document, with the exception of a document(s) relating
16 to a temporary restraining order, which is to be submitted the day it is filed. *See infra*,
17 11, p. 18.

18 Mandatory chambers' copies must be printed from CM/ECF, and must include the
19 CM/ECF-generated header (consisting of the case number, document control number,
20 date of filing, page number, etc.). Any stapling or binding should not obscure the
21 CM/ECF-generated header. The Court prefers that chambers' copies not be two-hole
22 punched or blue-backed; when possible, staple each copy only in the upper left hand
23 corner.

24 **f. Citations to Case Law**

25 Citations to case law must identify not only the case cited, but the specific page
26 referenced. For example, if a quotation is presented, the associated page citation shall be
27 provided. Similarly, if a case is cited in support of a proposition based on language in the
28 opinion, the page(s) on which such language appears shall be provided. Bluebook style

1 is preferred.

2 **g. Citations to Other Sources**

3 Statutory references should identify with specificity the sections and subsections
4 referenced. Citations to treatises, manuals, and other materials should include the volume,
5 section, and pages that are referenced. Citations to prior filings in the same matter shall
6 include the docket entry number, section, and pages that are referenced. Bluebook style
7 is preferred.

8 **h. Oral Argument**

9 If the Court deems a matter appropriate for decision without oral argument, the Court
10 will notify the parties in advance. [Local Rule 7-15](#).

11 **10. Specific Motions**

12 **a. Motions Pursuant to Rule 12**

13 Many motions to dismiss or to strike can be avoided if the parties confer in good faith
14 (as required by [Local Rule 7-3](#)), especially where perceived defects in a complaint, answer,
15 or counterclaim could be corrected by amendment. See *Chang v. Chen*, 80 F.3d 1293,
16 1296 (9th Cir. 1996) (where a motion to dismiss is granted, a district court should provide
17 leave to amend unless it is clear that the complaint could not be saved by any amendment).
18 These principles require that plaintiff's counsel carefully evaluate defendant's contentions
19 as to the deficiencies in the complaint. In most instances, the moving party should agree
20 to any amendment that would cure the defect.

21 If a motion to dismiss is granted with leave to amend, counsel shall attach as an
22 appendix to an amended pleading a "redline" version of the amended pleading showing
23 all additions and deletions of material.

24 **b. Motions to Amend**

25 All motions to amend pleadings shall: (1) state the effect of the amendment and
26 (2) identify the page and line number(s) and wording of any proposed change or addition
27 of material. The proposed amended pleading shall be serially numbered to differentiate
28 it from previously amended pleadings.

In addition to the requirements of [Local Rule 15](#), counsel shall attach as an appendix to the moving papers a “redline” version of the proposed amended pleading showing all additions and deletions of material.

c. Summary Judgment Motions

Parties need not wait until the motion cut-off date to bring a motion(s) for summary judgment or partial summary judgment. Whenever possible, the party moving for summary judgment should provide more than the minimum twenty-eight (28) day notice for motions.

See [Local Rule 6-1](#). The parties should prepare papers in a fashion that will assist the Court in locating the evidence with respect to the facts (e.g., generous use of tabs, tables of contents, headings, indices, etc.). The parties are to comply precisely with [Local Rule 56](#).

i. Statements of Uncontroverted Facts and Genuine Issues

The Statement of Uncontroverted Facts and Conclusions of Law (“Statement of Uncontroverted Facts”), as required by [Local Rule 56-1](#), shall be separately lodged and identify each claim for relief on which the moving party seeks summary judgment and the legal grounds for summary judgment. In a two-column format beneath the identified claim for relief, the left-hand column shall set forth, sequentially numbered, each allegedly uncontroverted material fact as to that claim for relief, and the right-hand column shall set forth the evidence that supports the factual statement. Citation to the supporting evidence shall be specific, including reference to the docket number, exhibit, page, and line number. The Statement of Uncontroverted Facts shall be formatted based on the following examples:

Plaintiff’s Claim for Relief for _____ is Barred by the Applicable Statute of Limitations. (Cite)

1. (Moving party’s first undisputed fact)	(Supporting evidence citation, e.g., Dkt. 50, Exh. 5 at 7:3-5)
2. (Moving party’s second undisputed fact)	(Supporting evidence citation, e.g., Dkt. 51-5, Exh. 5 at 8:4-5)

\\

1 Chambers' copies of the Statement of Uncontroverted Facts and Conclusions of Law
2 shall be submitted in a binder, which is separated from the evidence in support of a motion
3 for summary judgment. Counsel shall include tab dividers which separate the statements
4 of uncontroverted facts in support of each claim for relief.

5 The opposing party's Statement of Genuine Disputes of Material Fact must be in two
6 columns and track the movant's separate statement exactly as prepared. The left-hand
7 column must restate the allegedly undisputed fact and the alleged supporting evidence,
8 and the right-hand column must state either that it is undisputed or disputed. The opposing
9 party may dispute all or only a portion of the statement, but if disputing only a portion, such
10 party must clearly indicate what part is being disputed, followed by the opposing party's
11 evidence controverting the fact. To demonstrate that a fact is disputed, the opposing party
12 must briefly state why it disputes the moving party's asserted fact, cite to the relevant
13 exhibit or other evidence, and describe what it is in that exhibit or evidence that refutes the
14 asserted fact. No legal argument should be set forth in this document.

15 Chambers' copies of the opposing party's Statement of Genuine Disputes must also
16 be submitted in a binder, which is separated from the evidence in opposition to a motion
17 for summary judgment. Counsel shall include tab dividers which separate the Statement
18 of Genuine Disputes as to each claim for relief.

19 The opposing party may submit additional material facts that bear on, or relate to,
20 the issues raised by the movant, which shall follow the format described above for the
21 moving party's separate statement. These additional facts shall continue in sequentially
22 numbered paragraphs and shall set forth in the right-hand column the evidence that
23 supports that statement. Additional material facts shall be filed in a separate document
24 from the Statement of Genuine Disputes. Chambers' copies of the opposing party's
25 additional material facts must be filed in a separate binder from the Statement of Genuine
26 Disputes. Counsel shall include tab dividers which separate the additional material facts
27 as to each claim for relief.

28 \\\

1 **ii. Supporting Evidence**

2 No party shall submit evidence other than the specific items of evidence or testimony
3 necessary to support or controvert a proposed statement of undisputed fact. For example,
4 entire deposition transcripts, entire sets of interrogatory responses, and documents that
5 do not specifically support or controvert material in the separate statement shall not be
6 submitted in support of or opposition to a motion for summary judgment.

7 Evidence submitted in support of, or in opposition to, a motion should be submitted
8 either by way of stipulation or as exhibits to declarations sufficient to authenticate the
9 proffered evidence, and should not be attached to the memorandum of points and
10 authorities. Documentary evidence as to which there is no stipulation regarding foundation
11 must be accompanied by the testimony, either by declaration or properly authenticated
12 deposition transcript, of a witness who can establish authenticity.

13 The parties shall ensure that electronically filed copies of evidence in support of,
14 or in opposition to, a motion for summary judgment are in the proper format. Thus, all
15 documents must be PDF searchable and have selectable text that may be copied and
16 pasted directly from the filed document. All chambers' copies shall be filed in accordance
17 with ¶ 9(d) of this Order. All chambers' copies and electronically filed documents must
18 include the CM/ECF-generated header (consisting of the case number, document control
19 number, date of filing, page number, etc.).

20 Additionally, testimony cited in a statement of uncontroverted facts, statement of
21 genuine material facts, or additional material facts shall be highlighted and/or underlined
22 in both the electronically filed copy on CM/ECF and in the chambers' copies.

23 **iii. Objections to Evidence**

24 Evidentiary objections to a declaration submitted in connection with a motion or other
25 matter shall be made in writing and served and e-filed at the same time as, but separately,
26 from the opposition or reply papers. If a party disputes a fact based in whole or in part of
27 an evidentiary objection, the ground of the objection should be succinctly stated in a
28 separate statement of evidentiary objections in a three-column format:

1 a. The left column should include the entire declaration or deposition,
 2 which shall include the highlighted, underlined, and/or bracketed portions that are being
 3 objected to (including page and line number, if applicable). Each objection shall be
 4 numbered and located within the copy of the declaration.

5 b. The middle column should set forth a concise objection (e.g., hearsay,
 6 lacks foundation, etc.) with a citation to the Federal Rules of Evidence or, where applicable,
 7 a case citation.

8 c. The right column should provide space for the Court's entry of its ruling
 9 on the objection.

10 d. A proposed order shall be filed and attached to the evidentiary
 11 objections as a separate document consistent with [Local Rule 52-4.1](#) and either uploaded
 12 through the CM/ECF System or emailed directly to the Court's Chambers' email at:
 13 jak_chambers@cacd.uscourts.gov.

14 See Exhibit F to this Order. Counsel shall adhere to this format for any evidentiary
 15 objections that are submitted to the Court for consideration.

16 **d. Motions in Limine**

17 Motions in limine are heard at the date and time of the Final Pretrial Conference
 18 and shall be e-filed fourteen (14) calendar days before the Final Pretrial Conference.

19 The motions shall be prepared and filed consistent with [Local Rule 6-1](#) and [Local Rule 7](#)

20 shall be numbered sequentially by each party who presents them. The supporting
 21 memorandum shall not exceed ten (10) pages. Any opposition(s) shall be e-filed seven
 22 (7) days before the Final Pretrial Conference and shall not exceed 10 pages. The Court
 23 will permit oral argument on motions in limine and, therefore, a reply is not required.

24 The Court hears all motions in limine, which shall be numbered sequentially by each party
 25 who presents them, at the time of the Final Pretrial Conference.

26 **e. Motions for Attorney's Fees**

27 Motions for attorney's fees shall be e-filed and set for hearing according to [Local](#)
 28 [Rule 6-1](#) and this Order. Any motion or request for attorney's fees shall attach two

summaries, in table form, of the hours worked by and billing rate of each attorney with title (i.e., partner, local counsel, associate, etc.).

The first table shall include a summary of the hours worked by each attorney, organized by task (i.e., discovery, motion to dismiss, motion for summary judgment). If the hourly rate charged by any individual attorney changed while the case was ongoing, the party shall provide separate calculations for the total number of hours that the attorney spent in connection with each task at each hourly rate.

The second table shall include a summary of the hours worked by each attorney, organized by attorney. This table shall list all of the tasks on which the attorney worked, the hours worked on each task, and the hourly rate of each attorney.

Any table as set forth above shall be attached to the motion and electronically filed. The courtesy copy of the table shall be emailed to the Court's Chambers' email at: jak_chambers@cacd.uscourts.gov, which shall be prepared in Microsoft Excel and have all restrictions removed so that the spreadsheet can be edited. See Exhibit G.

i. Motions for Preliminary and Final Approval of Class Action Settlement

Parties submitting a motion for preliminary or final approval of a class settlement shall include a spreadsheet supporting any proposed award of attorney's fees.

The spreadsheet shall include an estimate of any future attorney's fees for which compensation will be sought, the normal hourly rate of all counsel for whom entries appear on the spreadsheet, the support for such hourly rate(s), and an explanation of the basis of any service enhancement award for lead plaintiff(s), including the hours worked and activities performed by such lead plaintiff(s). An editable, electronic courtesy copy shall be prepared in Microsoft Excel and emailed to the Court's Chambers' email at: jak_chambers@cacd.uscourts.gov formatted for use with Microsoft Excel. See Exhibit G.

11. Under Seal Documents

Counsel shall comply with [Local Rule 79-5](#). All applications must provide the reason(s) why the parties' interest in maintaining the confidentiality of the document(s)

1 outweighs the public's right of access to materials submitted in connection with a judicial
2 proceeding. Counsel are ordered to meet and confer in person or by telephone at least
3 seven (7) calendar days prior to the filing of an application in which the basis for the
4 requested sealing is stated to determine if they can agree on the proposed under seal
5 filing. Not later than two (2) calendar days after the meet and confer process has
6 concluded, the non-proposing party shall confirm whether it agrees to having such
7 information designated as confidential or whether it opposes an under seal filing. Any
8 application for under seal filing, whether or not opposed, shall contain the dates and
9 method by which the parties met and conferred. If such information is not provided, the
10 application will be denied without prejudice to an amended application being filed that
11 complies with the foregoing terms.

12 **E-filing Applications for Leave to File Under Seal**

- 13 1. The application for leave to file under seal shall be filed on the public docket
14 and shall attach a proposed order pursuant to [Local Rule 5-4.4.1](#) and [Local](#)
15 [Rule 5-4.4.2](#). Any declaration that supports the application shall also be
16 attached to the application unless it contains confidential information. The
17 declaration shall be filed under seal as its own docket entry if it contains
18 confidential information.
- 19 2. The unredacted version of any document(s) shall be filed under seal. It may
20 be attached to the declaration that supports the application, if the declaration
21 is sealed and is filed as its own docket entry. Otherwise, it shall be filed as its
22 own docket entry. The title shall include "Unredacted" or "Sealed" as the first
23 word of the title of the document. Any sealed document must clearly mark the
24 information that is confidential or privileged via highlighting in color and/or
25 using brackets.
- 26 3. The Court will review the submitted documents and make a determination as
27 to whether the document(s) can be sealed and filed on the docket. If the
28 application is granted, counsel shall file:

- 1 (i) The unredacted version of the entire document as its own docket
2 entry. The title shall include “Unredacted” or “Sealed” as the first
3 word of the title of the document. Any information that has been
4 redacted or omitted from the public filing must be clearly marked
5 via highlighting in color and/or using brackets.
- 6 (ii) The redacted version of the entire document as its own docket
7 entry. Unless otherwise stated in the order granting the application,
8 a redacted version is required of all sealed documents. The title
9 shall include “Redacted” as the first word of the title of the document.
10 Any information that is confidential or privileged must be blacked
11 out or a page shall be inserted with the title of the document that
12 indicates that the entire document is sealed.
- 13 (a) Closely related materials filed at the same time where some are
14 proposed to be filed under seal and others will not be sealed
15 shall be considered as a single document and filed as a single
16 docket entry containing multiple attachments. For example, if
17 certain exhibits to a declaration are to be filed under seal, even
18 if other exhibits or the declaration are not, the entire document
19 for which permission to seal should be sought is the declaration
20 and all exhibits. The docket shall therefore include:
- 21 • one unredacted/sealed docket entry with the documents
22 to include the declaration with all exhibits, including sealed
23 exhibits, efiled as an attachment to the declaration;
 - 24 • a separate redacted docket entry with the documents to
25 include the declaration with all exhibits, including redacted
26 exhibits, efiled as an attachment to the declaration.
- 27 (iii) A courtesy copy shall be delivered of the sealed document(s) only,
28 both at the time that they are submitted as proposed documents to

1 be sealed in connection with the application and after the
2 application is granted. No courtesy copy is necessary of the
3 application, proposed order, or any redacted document(s).

4 **12. Initial Pleadings**

5 Counsel shall comply with [Local Rule 3](#) when filing initial pleadings. All initiating
6 pleadings, including third-party complaints, amended complaints, complaints in
7 intervention, counterclaims, and cross claims, shall be filed as a separate document.
8 None shall be combined with an answer.

9 **13. Amended Pleadings**

10 Every amended pleading shall be serially numbered to differentiate the pleading
11 from prior pleadings, e.g., First Amended Complaint, Second Amended Counterclaim,
12 Third Amended Cross Claim, etc. Counsel shall attach as an appendix to all amended
13 pleadings a “redline” version of the amended pleading showing all additions and
14 deletions of material from the most recent prior pleading.

15 **14. Pro Se/Self-Represented Parties**

16 Pro se/Self-represented parties may continue to present all documents to the Clerk
17 for filing in paper format pursuant to [Local Rule 5-4.2](#). However, the Court will also permit
18 self-represented parties to present all documents to the Clerk for filing by email so long as
19 they comply with the following requirements:

20 (a) The document shall be prepared so that it complies with the requirements set
21 forth in [Local Rule 11-3](#), i.e., legibility, font, paper, pagination, spacing, title page, page
22 limits, etc. Additionally, the document shall also comply with any requirements specific to
23 the type of document that is being submitted for filing, i.e., motions need to also adhere to
24 [Local Rule 6-1](#) and [Local Rule 7](#) as set forth in ¶ 9 of this Order.

25 (b) The document shall be emailed as a PDF document to the Chambers’ email:
26 jak_chambers@cacd.uscourts.gov no later than the date it is due. The Court will deem
27 the date the document is emailed as the filed or lodged date. The proceeding line of
28 the email shall contain: (i) the case number; (ii) case name; and (iii) “Pro Se Filing” to

1 ensure it will be filed/lodged properly.

2 (c) The Chambers' email will be used solely to accept documents for filing. The
3 Chambers' email is not to be used in any way to communicate with the Judge or Clerk.
4 All parties, including Pro se/Self-represented parties, shall refrain from writing letters to
5 the Court, sending e-mail messages, making telephone calls to chambers, or otherwise
6 communicating with the Court unless opposing counsel is present. All matters must be
7 called to the Court's attention by appropriate application or motion pursuant to [Local](#)
8 [Rule 83-2.5](#).

9 (d) A courtesy copy of the document shall be mailed to the Court no later than
10 12:00 p.m. on the day following the date it was emailed as set forth in ¶ 9(e) of this Order.

11 (e) It is the Court's expectation that Pro se/Self-represented parties are to comply
12 with the Local Rules and the rules set by this Court. The Court has a Pro Se Clinic
13 available to assist those persons who do not have an attorney to represent them. Clinics
14 are located in Los Angeles, Riverside, and Santa Ana. More information can be obtained
15 on the Court's website located at <http://prose.cacd.uscourts.gov/>. The Los Angeles Clinic
16 operates by appointment only. You may schedule an appointment either by calling the
17 Clinic or by using an internet portal. You can call the Clinic at (213) 385-2977, ext. 270
18 or you can submit an internet request at the following site: [http://prose.cacd.uscourts.gov/](http://prose.cacd.uscourts.gov/los-angeles)
19 [los-angeles](http://prose.cacd.uscourts.gov/los-angeles). Clinic staff can respond to many questions with a telephonic appointment
20 or through your email account. It may be more convenient to email your questions or
21 schedule a telephonic appointment. Staff can also schedule you for an in-person
22 appointment at their location in the Roybal Federal Building and Courthouse, 255 East
23 Temple Street, Suite 170, Los Angeles, California 90012.

24 **15. Notice of This Order/E-Filed Documents**

25 Plaintiff's counsel or plaintiff (if appearing on his or her own behalf) shall immediately
26 serve this Order on all parties, including any new parties to the action. If this case came
27 to the Court by a Petition for Removal, the removing defendant(s) shall serve this Order
28 on all other parties.

1 Any document that is e-filed shall be served by mail that same day on any party or
2 attorney who is not permitted or has not consented to electronic service, with a proof of
3 service to be filed within 24 hours.

4 **IT IS SO ORDERED.**

5
6

JOHN A. KRONSTADT
UNITED STATES DISTRICT JUDGE

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT B
INITIAL STANDING ORDER FOR PATENT CASES ASSIGNED TO JUDGE JOHN A.
KRONSTADT

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

Plaintiff's Name(s),

Plaintiff(s),

vs.

Defendant's Name(s),

Defendant(s).

Case No.: _____ JAK (x)

**INITIAL PATENT ORDER FOR CASES
ASSIGNED TO JUDGE JOHN A.
KRONSTADT**

These Standing Patent Rules are based on the Standing Patent Rules issued by Judge Andrew J. Guilford in September 2013, which were based largely on information obtained from over 100 patent practitioners and professors, a review of all the other local patent rules and a review of related literature. The rules were drafted to respond to the needs of this community and to reduce transaction costs and increase procedural predictability. Two central goals were that the rules be outcome neutral and as concise as possible.

1. GENERAL PROVISIONS

1.1 Title

These are the Standing Patent Rules for cases assigned to Judge John A. Kronstadt.

They should be cited as "S.P.R. ____."

\\

\\

1.2 Effective Date

These Standing Patent Rules take effect on April 1, 2014, and apply in cases filed on or after that date. The Court may order that they also apply, with appropriate modification, to cases filed before that date.

1.3 Scope and Construction

These rules apply to all cases involving a claim of infringement, non-infringement, invalidity or unenforceability of a utility patent. The Local Rules of this District shall also apply to such actions, except to the extent that they are inconsistent with these Standing Patent Rules. The Court will consider requests to opt out of these Standing Patent Rules, particularly when all parties agree the case involves damages or other claims of less than \$2 million.

1.4 Modification of These Rules

The Court may modify or suspend these rules at any time. The Court will consider modifications to these rules suggested by the parties based on the circumstances of any particular case. Such party-suggested modifications shall, in most cases, be made at the scheduling conference, but may be made at other times upon a showing of good cause.

1.5 Confidentiality

Absent a Court order, discovery cannot be withheld on the basis of confidentiality.

The Court's Standing Protective Order shall govern discovery unless the Court enters a different protective order, which may be entered by the assigned Magistrate Judge without further order from the District Judge.

1.6 Relationship to the Federal Rules of Civil Procedure

Except as provided in this paragraph or otherwise ordered, it shall not be a ground for objecting to discovery requests (such as interrogatories, document requests, requests for admission or deposition questions), or declining to provide information otherwise required by Fed. R. Civ. P. 26(a)(1), that the discovery request or disclosure requirement is premature due to, or otherwise conflicts with, these Standing Patent Rules. But a party may object to the following categories of discovery requests (or decline to provide

1 information in its initial disclosures under Fed. R. Civ. P. 26(a)(1)) on the ground of
2 prematurity under these Standing Patent Rules: (1) requests seeking a party's claim
3 construction position; (2) requests seeking from the patent claimant a comparison of the
4 asserted claims and the accused apparatus, product, device, process, method, act or
5 other instrumentality (collectively "Accused Instrumentality"); (3) requests seeking from
6 an accused infringer a comparison of the asserted claims and the prior art; (4) requests
7 seeking from an accused infringer the identification of any advice of counsel or related
8 documents.

9 **2. PATENT DISCLOSURES, EARLY MEETING OF THE PARTIES, AND** 10 **SCHEDULING CONFERENCE**

11 **2.1 Disclosure of Asserted Claims and Infringement Contentions**

12 No later than 14 days after the Court issues an order setting a scheduling conference,
13 a party asserting patent infringement shall serve on all parties a Disclosure of Asserted
14 Claims and Infringement Contentions. Separately for each opposing party, the Disclosure
15 of Asserted Claims and Infringement Contentions shall contain the following information
16 as described in S.P.R. 2.1.1 through 2.1.6.

17 **2.1.1** Each claim of each patent in suit that is allegedly infringed by each
18 opposing party, including for each claim the applicable statutory subsections
19 of 35 U.S.C. § 271 asserted.

20 **2.1.2** Separately for each asserted claim, each Accused Instrumentality. This
21 identification shall be as specific as reasonably possible.

22 **2.1.3** A chart identifying specifically where each limitation of each asserted claim
23 is found within each Accused Instrumentality, including, for each limitation that
24 such party contends is governed by 35 U.S.C. § 112(6)/(f), the identity of the
25 structure(s), act(s), or material(s) in the Accused Instrumentality that performs the
26 claimed function, and whether each limitation of each asserted claim is alleged to
27 be literally present or present under the doctrine of equivalents in the Accused
28 Instrumentality.

1 **2.1.4** For any patent that claims priority to an earlier application, the priority date
2 allegedly applicable to each asserted claim.

3 **2.1.5** If a party claiming patent infringement wishes to preserve the right to rely,
4 for any purpose, on the assertion that its own apparatus, product, device, process,
5 method, act or other instrumentality practices the claimed invention, the party shall
6 identify, separately for each asserted claim, each such apparatus, product, device,
7 process, method, act or other instrumentality that incorporates or reflects that
8 particular claim.

9 **2.1.6** If a party claiming patent infringement alleges willful infringement, the basis
10 for such allegation.

11 **2.2 Document Production Accompanying Disclosure**

12 With the Disclosure of Asserted Claims and Infringement Contentions, the party claiming
13 patent infringement shall produce the following items described as set forth in S.P.R. 2.2.1
14 through 2.2.3, identifying the documents corresponding to each category by production
15 number.

16 **2.2.1** A copy of the file history for each patent in suit.

17 **2.2.2** All documents evidencing ownership of the patent rights by the party
18 asserting patent infringement.

19 **2.2.3** If a party identifies instrumentalities under S.P.R. 2.1.5, documents sufficient
20 to show the operation of any aspects or elements of such instrumentalities the
21 patent claimant relies upon as embodying any asserted claims.

22 **2.3 Early Meeting of Counsel**

23 No later than 14 days after the service of the materials required by S.P.R. 2.1 and 2.2,
24 counsel for the parties shall exchange Fed. R. Civ. P. 26(a)(1)(A) initial disclosures and
25 meet in person or telephonically to prepare for the scheduling conference and prepare
26 the joint Fed. R. Civ. P. 16(b)/26(f) report. Both sides have the duty to schedule the
27 meeting and comply with this paragraph, with plaintiff initiating the process. The parties
28 should consider, where applicable, consolidation of related cases, including for trial, and

1 transfer for pretrial purposes through the Judicial Panel on Multidistrict Litigation. The
2 parties should consider the Federal Circuit Advisory Committee's Model Order Limiting
3 Excess Patent Claims and Prior Art. The parties should discuss ADR timing, recognizing
4 that settlement decisions, like other business decisions, are often made with incomplete
5 information. Where necessary in multi-defendant cases and upon a showing of good
6 cause, counsel may apply for a reasonable extension of time to hold the early meeting
7 of counsel. The parties shall submit their joint Fed. R. Civ. P. Rule 16(b)/26(f) report no
8 later than 14 days after the early meeting of counsel. See Exh. C-1.

9 **2.4 Scheduling Conference**

10 A scheduling order will be issued by the Court. The parties will be required to file a
11 Joint Rule 16(b)/26(f) Report. Upon review of the Report, the Court will either issue a
12 scheduling order or set the matter for a hearing. If a hearing is necessary, each side
13 will have the opportunity to present briefly any potentially dispositive issues it wishes to
14 bring to the Court's attention and to discuss its position on disputed scheduling issues.
15 The presentations are intended to allow the Court to make informed decisions on
16 scheduling and potential modifications of these rules. At the scheduling conference,
17 the Court will issue a scheduling order.

18 **2.5 Invalidity Contentions**

19 No later than 14 days after the scheduling conference, each party opposing a claim of
20 patent infringement shall serve on all parties Invalidity Contentions containing the following
21 information as described in S.P.R. 2.5.1 through 2.5.4.

22 **2.5.1** The identity of each item of prior art that allegedly anticipates each asserted
23 claim or renders it obvious. Each prior art patent shall be identified by its number, country
24 of origin and date of issue. Each prior art publication shall be identified by its title, date of
25 publication, author and publisher. Prior art under 35 U.S.C. § 102(b)/(a) shall be identified
26 by specifying the item offered for sale or publicly used or known, the date the offer or use
27 took place or the information became known, and the identity of the person or entity which
28 made the use or which made and received the offer, or the person or entity which made

1 the information known or to whom it was made known. Prior art under 35 U.S.C. § 102(f),
2 or other claim of derivation, shall be identified by providing the name of the person(s)
3 from whom and the circumstances under which the invention or any part of it was derived.
4 Prior art under 35 U.S.C. § 102(g) shall be identified by providing the identities of the
5 person(s) or entities involved in and the circumstances surrounding the making of the
6 invention before the patent applicant(s).

7 **2.5.2** Whether each item of prior art anticipates each asserted claim or renders it
8 obvious. If obviousness is alleged, an explanation of why the prior art renders the
9 asserted claim obvious, including an identification of any combinations of prior art
10 showing obviousness.

11 **2.5.3** A chart identifying where specifically in each alleged item of prior art
12 each limitation of each asserted claim is found, including for each limitation that
13 such party contends is governed by 35 U.S.C. § 112(6)/(f), the identity of the
14 structure(s), act(s) or material(s) in each item of prior art that performs the
15 claimed function.

16 **2.5.4** Any grounds of invalidity based on 35 U.S.C. § 101, indefiniteness under
17 35 U.S.C. § 112(2)/(b), or enablement or written description under 35 U.S.C.
18 § 112(1)/(a) of any of the asserted claims.

19 **2.6 Document Production Accompanying Invalidity Contentions**

20 With the Invalidity Contentions, the party opposing a claim of patent infringement shall
21 produce the items described as follows in S.P.R. 2.6.1 through 2.6.2, identifying the
22 documents corresponding to each category by production number.

23 **2.6.1** Source code, specifications, schematics, flow charts, artwork, formulas or
24 other documentation sufficient to show the operation of any aspects or elements
25 of an Accused Instrumentality identified by the patent claimant's S.P.R. 2.1.3 chart.

26 **2.6.2** A copy or sample of the prior art identified under S.P.R. 2.5.1 that does not
27 appear in the file history of the patent(s) at issue. To the extent any such item is
28 not in English, an English translation of the portion relied upon shall be produced.

2.7 Disclosure Requirement in Patent Cases for Declaratory Judgment of Invalidity Where No Claim of Infringement Has Been Made

In all cases where a party files a complaint or other pleading seeking a declaratory judgment that a patent is invalid, S.P.R. 2.1 and 2.2 shall not apply unless and until a claim for patent infringement is made, and the party asserting patent infringement shall have 28 days (instead of 14 days) after the order setting the scheduling conference to make its disclosures pursuant to S.P.R. 2.1 and 2.2. If the defendant does not assert a claim for patent infringement in its answer to the complaint, the party seeking a declaratory judgment of invalidity shall serve upon each opposing party its S.P.R. 2.5 and 2.6 disclosures no later than 14 days after the order setting the scheduling conference.

3. CLAIM CONSTRUCTION

3.1 Exchange of Proposed Terms for Construction

No later than 14 days after the S.P.R. 2.5 and 2.6 disclosures, each party shall serve on each other party a list of claim terms the party contends should be construed by the Court, and identify any claim term the party contends should be governed by 35 U.S.C. § 112(6)/(f). The parties shall then work to limit the terms in dispute by narrowing or resolving differences, and to jointly identify the 10 terms likely to be most significant to the case.

3.2 Exchange of Claim Constructions and Extrinsic Evidence

No later than 14 days after the exchange of the S.P.R. 3.1 lists, the parties shall simultaneously exchange proposed constructions of each term identified by either party for claim construction. Each such construction shall also, for each term that any party contends is governed by 35 U.S.C. § 112(6)/(f), identify the structure(s), act(s) or material(s) corresponding to that term's function. At the same time the parties exchange their constructions, each party shall also identify all references from the specification or prosecution history that support its proposed construction and designate any supporting extrinsic evidence including, without limitation, dictionary definitions, citations to learned treatises and prior art, and testimony of percipient and expert witnesses. Extrinsic

1 evidence shall be identified by production number and by producing a copy if not
2 previously produced. For any supporting witness, percipient or expert, the identifying
3 party shall also provide a declaration containing that witness' testimony regarding claim
4 construction. The parties shall then meet and confer to narrow the issues and finalize
5 preparation of a Joint Claim Construction and Prehearing Statement.

6 **3.3 Completion of Claim Construction Discovery**

7 No later than 28 days after service of the material required by S.P.R. 3.2, the parties shall
8 complete all discovery desired for claim construction, including any depositions of fact and
9 expert witnesses regarding claim construction.

10 **3.4 Joint Claim Construction and Prehearing Statement**

11 No later than seven days after the completion of claim construction discovery, the parties
12 shall complete and file a Joint Claim Construction and Prehearing Statement. The Joint
13 Claim Construction and Prehearing Statement shall contain the information described
14 as follows in S.P.R. 3.4.1 through 3.4.5.

15 **3.4.1** The parties' agreed constructions.

16 **3.4.2** A chart showing each party's proposed construction of each disputed term,
17 together with an identification of all references from the specification or prosecution
18 history that support that construction, and an identification of any extrinsic
19 evidence supporting its proposed construction or undermining any other party's
20 proposed construction, including, but not limited to, dictionary definitions, citations
21 to learned treatises and prior art, and testimony of percipient and expert witnesses.

22 **3.4.3** An identification of up to 10 terms whose construction will be most significant
23 to the case. If the parties cannot agree on the 10 most significant terms, the parties
24 shall identify the ones they agree are most significant and then they may evenly
25 divide the remainder. While the Court may in its discretion construe more than 10
26 terms, the total terms identified by all parties as most significant cannot exceed
27 10. For example, in a case involving two parties, if the parties agree upon the
28 identification of five terms as most significant, each may only identify two

1 additional terms as most significant. A failure to make a good faith effort to narrow
2 the instances of disputed terms or otherwise participate in the meet and confer
3 process of any of the provisions in S.P.R. 3 may expose counsel to sanctions,
4 including under 28 U.S.C. § 1927.

5 **3.4.4** Whether the party believes it will need more than 45 minutes total for all its
6 presentation at the claim construction hearing, and if so, how much time, and why
7 more time is necessary.

8 **3.4.5** Whether any party proposes to call one or more witnesses at the claim
9 construction hearing, the identity of each such witness, and for each witness, a
10 summary of the testimony including, for any expert, each opinion to be offered on
11 claim construction.

12 **3.5 Claim Construction Briefs**

13 No later than seven days after they file the Joint Claim Construction and Prehearing
14 Statement, the parties shall file simultaneous opening claim construction briefs of not
15 more than 25 pages. Not later than 14 days after the opening briefs, the parties shall file
16 simultaneous responsive briefs of not more than 10 pages. With its responsive brief, each
17 party shall submit any presentation material (such as demonstrative exhibits, including
18 PowerPoint or other slide presentations) it wishes to use at the claim construction hearing,
19 and may submit a technology tutorial of no more than 20 minutes in length on CD-ROM,
20 DVD or USB thumb drive. Any presentation materials shall be served on all parties as of
21 the time that they are filed. At the claim construction hearing, the Court will not accept, and
22 will not permit the parties to use, any presentation material that was not submitted with
23 the briefing. If a party wishes to use a physical exhibit at the claim construction hearing,
24 it shall file with its responsive brief photographs of the physical exhibit along with a
25 statement that it intends to use the physical exhibit at the hearing. Concurrently with
26 the filing of the responsive briefs, the parties shall jointly lodge with the Court the
27 material described as follows in S.P.R. 3.5.1 through 3.5.3.

28 \\\

1 **3.5.1** A chart in Word or WordPerfect format providing the parties' proposed
2 constructions of each disputed term, with a column for the Court's construction.

3 **3.5.2** An annotated copy of the certified file history for each asserted patent.
4 Each file history shall be printed double-sided, indexed, tabbed and compiled in a
5 three-ring binder. Each office action, response, filing or other communication shall
6 be given a separate tab, with the date of each clearly designated. Portions of the
7 file history relied upon by the patentee for claim construction shall be highlighted
8 in yellow. Portions of the file history relied upon by the accused infringer(s) shall
9 be highlighted in blue. Portions of the file history relied upon by both sides shall be
10 highlighted in green.

11 **3.5.3** An electronic copy of each file history on a CD-ROM, DVD or USB thumb
12 drive. Each file history shall be a single PDF file with bookmarks corresponding to
13 the tabs on the paper copy, and containing the highlighting present on the paper
14 copy.

15 **3.6 Claim Construction Hearing**

16 Subject to the Court's calendar, approximately 119 days (17 weeks) after the scheduling
17 conference, the Court will conduct a claim construction hearing. Each side shall have 45
18 minutes for its presentation, subject to enlargement at the Court's discretion. Again, parties
19 may not use at the hearing any presentation material they did not previously serve on
20 opposing counsel and submit to the Court in accordance with S.P.R. 3.5.

21 **4. FINAL CONTENTIONS, EXPERT REPORTS, DISCLOSURE OF ADVICE OF** 22 **COUNSEL, AND DISPOSITIVE MOTION DEADLINE**

23 **4.1 Final Infringement Contentions and Expert Reports**

24 No later than 28 days after the Court construes the claims, the party claiming patent
25 infringement shall serve the information described as follows in S.P.R. 4.1.1 and 4.1.2.

26 The deadlines provided in this rule do not excuse the requirement to supplement
27 disclosures and discovery responses promptly. If a party receiving Final Infringement
28 Contentions believes that amendments were made without good cause, it may move the

1 Court to strike them.

2 **4.1.1** All Rule 26 expert reports on issues where the party claiming patent
3 infringement bears the burden of proof.

4 **4.1.2** A statement that its S.P.R. 2.1 contentions are its Final Infringement
5 Contentions, or in the alternative, Final Infringement Contentions that amend its
6 S.P.R. 2.1 contentions. A party serving Final Infringement Contentions that amend
7 its prior contentions shall also provide a redline against its prior contentions and a
8 statement of reasons for each amendment. Amendments are subject to a good
9 cause standard but do not require prior Court approval where they are made due
10 to a claim construction by the Court different from that proposed by the party
11 seeking amendment, or recent discovery of nonpublic information about the
12 Accused Instrumentality that was not discovered, despite diligent efforts, before
13 the service of the Infringement Contentions.

14 **4.2 Final Invalidity Contentions and Expert Reports**

15 No later than 28 days after service of the Final Infringement Contentions, the party
16 opposing a claim of patent infringement shall serve the information described as follows in
17 S.P.R. 4.2.1 and 4.2.2. The deadlines provided in this rule do not excuse the requirement
18 to supplement disclosures and discovery responses promptly. If a party receiving Final
19 Invalidity Contentions believes that amendments were made without good cause, it may
20 move the Court to strike them.

21 **4.2.1** All Rule 26 expert reports on issues where the party opposing a claim of
22 patent infringement bears the burden of proof.

23 **4.2.2** A statement that its S.P.R. 2.5 contentions are its Final Invalidity Contentions,
24 or in the alternative, Final Invalidity Contentions that amend its S.P.R. 2.5
25 contentions. A party serving Final Invalidity Contentions that amend its prior
26 contentions shall also provide a redline against its prior contentions and a
27 statement of reasons for each amendment. Amendments are subject to a good
28 cause standard but do not require prior Court approval where they are made

1 due to a claim construction by the Court different from that proposed by the
2 party seeking amendment, or recent discovery of material prior art that was not
3 discovered, despite diligent efforts, before the service of the Invalidity Contentions.

4 **4.3 Rebuttal Expert Reports and Close of Discovery**

5 Rebuttal expert reports are due no later than 28 days after service of the respective
6 S.P.R. 4.1 and 4.2 reports. Discovery closes 28 days after service of the latest set of
7 rebuttal reports. This will typically be approximately 119 days (17 weeks) after the claim
8 construction hearing. Amendments to or supplementation of expert reports after Standing
9 Patent Rules deadlines are presumptively prejudicial and shall not be allowed absent prior
10 leave of court upon a showing of good cause that the amendment or supplementation
11 could not reasonably have been made earlier and that the opposing party is not unfairly
12 prejudiced.

13 **4.4 Advice of Counsel**

14 No later than 28 days after service by the Court of its claim construction ruling, each party
15 relying upon advice of counsel as part of a patent-related claim or defense for any reason
16 shall produce the information described as follows in S.P.R. 4.4.1 through 4.4.3. A party
17 not complying with this rule shall not be permitted to rely on advice of counsel for any
18 purpose absent a stipulation of all parties or order of the Court.

19 **4.4.1** Any written advice and related documents for which the attorney-client and
20 work-product protection have been waived.

21 **4.4.2** A written summary of any oral advice and related documents for which the
22 attorney-client and work-product protection have been waived.

23 **4.4.3** A privilege log identifying any other documents, except those authored by
24 counsel acting solely as trial counsel, relating to the subject matter of the advice
25 that the party is withholding on the grounds of attorney-client privilege or work-
26 product protection.

27 **4.5 Final Day for Filing Dispositive Motions**

28 All dispositive motions shall be filed no later than 28 days after the close of discovery.

5 TRIAL

5.1 Standard Trial Procedures

Generally, trial procedure is governed by this Court's Specific Order on Jury/Court Trial and the Central District of California's Local Rules.

5.2 Other Possible Trial Procedures The Court is open to creative trial procedures, such as imposing time limits, allowing short statements introducing each witness's testimony before examination, allowing questions from the jury and giving the jury a full set of instructions before the presentation of evidence.

IT IS SO ORDERED.

JOHN A. KRONSTADT
UNITED STATES DISTRICT JUDGE

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT C
ORDER SETTING RULE 16(b)/26(f) SCHEDULING CONFERENCE

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

Plaintiff's Name(s),

Plaintiff(s),

vs.

Defendant's Name(s),

Defendant(s).

Case No.: _____ JAK (x)

**ORDER SETTING RULE 16(b)/26(f)
SCHEDULING CONFERENCE**

This case has been assigned to Judge John A. Kronstadt. This Order applies to all parties in this action, whether or not they are represented by counsel. "Counsel," as used in this Order, also refers to parties who are representing themselves. If plaintiff has not already served the complaint (or any amendment thereto) on each defendant, plaintiff shall promptly do so and file proofs of service within three (3) days thereafter. Defendant(s) also shall timely serve and file their responsive pleadings and file proofs of service within three (3) days thereafter.

The Court is prepared to issue a scheduling order in this matter. If a hearing is necessary, the scheduling conference will be held on the date listed in the caption. The conference will be held pursuant to Fed. R. Civ. P. 16 and Fed. R. Civ. P. 26(a). The parties are reminded of their obligations under Fed. R. Civ. P. 26(a) to disclose information

(without awaiting a discovery request) and under Rule 26(f) to confer on a discovery plan not later than twenty-one (21) days prior to the scheduling conference and to file a report with the Court entitled "Joint Rule 16(b)/26(f) Report" not later than ten (10) calendar days before the date set for the scheduling conference. If a hearing is not necessary, a date for the scheduling conference will not be set. The caption of this Order will state that the hearing is taken under submission and a hearing will not be held. The date for the filing of the Joint Rule 16(b)/26(f) Report will be included. Please comply with these requirements; it will simplify the Scheduling Conference.

The Court encourages counsel to begin to conduct discovery actively before the Scheduling Conference. The Court encourages prompt, early discovery because at the Scheduling Conference the Court will set firm deadlines to complete discovery. The parties shall comply fully with the letter and spirit of Fed. R. Civ. P. 26(a) and thereby obtain and produce most of what would be produced in the early stage of discovery. Discovery is not stayed prior to the Scheduling Conference or after dates have been set unless otherwise ordered by the Court.

1. Joint Rule 16(b)/26(f) Report

The Joint Rule 16(b)/26(f) Report shall be drafted by plaintiff's counsel (unless the parties agree otherwise or unless plaintiff is self-represented, in which case defendant's counsel), but shall be submitted and signed jointly. "Jointly" contemplates a single report, regardless of how many separately-represented parties there are. The Joint Rule 16(b)/26(f) Report shall report on all matters enumerated below, which include those required to be discussed by Rule 26(f) and [Local Rule 26](#). The Joint Rule 16(b)/26(f) Report should set forth the following information under section headings corresponding to those in this Order:

- a. Statement of the Case: A short synopsis (not to exceed two (2) pages) of the main claims, counterclaims, and affirmative defenses.
- b. Subject Matter Jurisdiction: A statement of the specific basis of federal jurisdiction, including supplemental jurisdiction.

- 1 c. Legal Issues: A brief description of the key legal issues, including any unusual
2 substantive, procedural or evidentiary issues.
- 3 d. Parties, and Non-Party Witnesses: A list of parties and percipient witnesses on
4 the main issues in the case. For conflict purposes, corporate parties must identify all
5 subsidiaries, parents and affiliates.
- 6 e. Damages: The realistic range of provable damages.
- 7 f. Insurance: Whether there is insurance coverage.
- 8 g. Motions: A statement of the likelihood of motions seeking to add other parties or
9 claims, file amended pleadings or transfer venue.
- 10 h. Manual for Complex Litigation: Whether all or part of the procedures of the Manual
11 for Complex Litigation should be utilized.
- 12 i. Status of Discovery: A discussion of the present state of discovery, including a
13 summary of completed discovery.
- 14 j. Discovery Plan: A detailed discovery plan, as contemplated by Rule 26(f), including
15 the identity of all anticipated deponents and dates by which their depositions are to be
16 completed (if possible), anticipated written discovery requests, including requests for
17 admission, document requests, and interrogatories, and a schedule for completion of
18 all discovery. State what, if any, changes in the disclosures under Rule 26(a) should be
19 made, the subjects on which discovery may be needed and whether discovery should be
20 conducted in phases or limited in some manner, whether applicable limitations should be
21 changed or other limitations imposed, and whether the Court should enter other orders.
22 Please note that a statement to the effect that discovery will be conducted as to all claims
23 and defenses, will not satisfy this requirement.
- 24 k. Discovery Cut-Off: A proposed discovery cut-off date. This means the final day for
25 completion of non-expert discovery, including resolution of all discovery motions. The last
26 day to hear discovery motions shall be the same as the last day to hear all motions.

27 See Exhibit C-1.

28 ///

- 1 l. Expert Discovery: Proposed dates for expert witness disclosures (initial and rebuttal)
2 and expert discovery cut-off under Rule 26(a)(2).
- 3 m. Dispositive Motions: A description of the issues or claims that any party believes
4 may be determined by motion for summary judgment or motion in limine.
- 5 n. Settlement: A statement of what settlement discussions or written communications
6 have occurred (excluding any disclosure or discussion of the substantive matters or terms
7 discussed) and a statement pursuant to [Local Rule 16-15.4](#) about selecting a settlement
8 mechanism under that Rule. In light of the Court's participation in the ADR Program, no
9 case will proceed to trial unless all parties with full authority to settle the case - including,
10 as to each corporate party, an officer who has such authority - have appeared personally
11 at a settlement conference. The Court will discuss the proposed ADR procedure with the
12 parties at the time of the Scheduling Conference and will issue the ADR-12 order once the
13 settlement method is selected. For information about the Court's ADR Program, review
14 [General Order 11-10](#), which is located on the "ADR" page of the Court's website.
- 15 o. Trial Estimate: A realistic estimate of the time required for trial and whether trial
16 will be by jury or by the Court. Each side should specify (by number, not by name) how
17 many witnesses it contemplates calling. If the time estimate for trial given in the Joint
18 Rule 26(f) Report exceeds five (5) court days, counsel shall be prepared to discuss in
19 detail the estimate.
- 20 p. Trial Counsel: The name(s) of the attorney(s) who will try the case, including those
21 who will be lead trial counsel.
- 22 q. Independent Expert or Master: Whether this is a case in which the Court should
23 consider appointing a Master pursuant to Rule 53 or an independent scientific expert.
- 24 r. Timetable: Please complete the Schedule of Pretrial and Trial Dates form attached
25 as Schedule A to this Order (Exhibit C-1) and attach it to the Joint Rule 16(b)/26(f) Report.
26 The entries in the "Weeks Before Trial" column reflect what the Court believes are
27 appropriate for most cases and will allow the Court to rule on potentially dispositive
28 motions sufficiently far in advance of the pretrial conference. The form is designed to

1 enable counsel to ask the Court to set different last dates by which the key requirements
 2 must be completed. Each side should fill in the month, day and year it requests for each
 3 event. *E.g.*, for the expert discovery cut-off it might be “10/7/16” for plaintiff and “10/28/16”
 4 for defendant, if they cannot agree. Each entry proposing a court date shall be on a
 5 Monday, except the trial date, which will be a Tuesday. Counsel should ensure that
 6 requested dates do not fall on a court holiday. At the conference, the Court will review
 7 this form with counsel in determining the dates that will be set in the case. The cut-off
 8 date for motions is the last date on which motions may be filed. The Court is not likely
 9 to continue this date. Counsel shall refer to the Court’s “Order on Court/Jury Trial.”
 10 See Exhibit D. This Order will set forth all pre-trial obligations of counsel, and, where
 11 applicable, the deadlines for each. Upon the Court’s final ruling on all motions, counsel
 12 will be directed to submit proposed dates for the Final Pretrial Conference and trial.

13 s. Other Issues: A statement of any other issues affecting the status or management
 14 of the case (*e.g.*, unusually complicated technical or technological issues, disputes over
 15 protective orders, extraordinarily voluminous document production, non-English speaking
 16 witnesses, ADA-related issues, discovery in foreign jurisdictions) and any proposals
 17 concerning severance, bifurcation or other ordering of proof.

18 t. Patent Cases: Propose dates and methodology for claim construction and Markman
 19 hearings. See also Exhibit B.

20 u. Whether the Parties Wish to Have a Magistrate Judge Preside: Under 28 U.S.C.
 21 § 636, the parties may consent to have a Magistrate Judge preside over an entire action,
 22 not just discovery. See [General Order 12-01](#) and [General Order 12-02](#). The parties
 23 may select a Magistrate Judge from the Voluntary Consent List and comply with the
 24 requirements outlined in [General Order 12-01](#) and [General Order 12-02](#) and those
 25 outlined on the Court’s website: [http://www.cacd.uscourts.gov/judges-requirements/
 26 court-programs/voluntary-consent-list-civil-cases-magistrate-judges-program](http://www.cacd.uscourts.gov/judges-requirements/court-programs/voluntary-consent-list-civil-cases-magistrate-judges-program).

27 **2. Scheduling Conference**

28 The Scheduling Conference will be held in Courtroom 10B of the First Street

1 Courthouse located at 350 W. First Street, Los Angeles, California. Counsel shall comply
2 with the following with respect to the Scheduling Conference:

3 a. Participation: The lead trial attorney for each party shall attend the Scheduling
4 Conference unless such counsel is engaged in trial, or has good cause following a request
5 to the Clerk by either telephone or email in advance of the Scheduling Conference.

6 b. Continuance: A continuance of the Scheduling Conference will be granted only for
7 good cause, following a written request with a proposed order to be e-filed at least one (1)
8 week in advance of the Scheduling Conference.

9 c. Use of Conference Telephone: In general, the Court prefers in-person appearances.
10 However, if one or more of the lead counsel has his or her office outside of Los Angeles
11 County, or under other appropriate circumstances, the Court may, upon the request of
12 one or more counsel, conduct the status conference by conference telephone call. Any
13 request for a telephonic appearance must be made at least two (2) court days before
14 the scheduled hearing by contacting the Courtroom Deputy Clerk for further instructions.
15 The Court does not entertain a telephonic appearance if the Scheduling Conference is
16 set at the same date and time as a motion unless it is an exceptional and unanticipated
17 circumstance. Any request for a telephonic appearance at a motion hearing must be made
18 in writing and e-filed at least seven (7) calendar days before the scheduled hearing and
19 shall include a declaration from counsel setting forth the basis for the request with a
20 proposed order. The Court does not use Court Call. If the request is granted, the order
21 will include the information for the call. Please note that cell phones or the use of speaker
22 phones are not permitted for any telephonic appearance.

23 **3. Protective Orders**

24 If you seek a protective order, please use your best efforts to propose it to opposing
25 counsel before the Scheduling Conference. Protective orders are considered discovery
26 and shall be prepared and submitted to the assigned Magistrate Judge.

27 **4. Notice to be Provided by Counsel**

28 Plaintiff's counsel or, if plaintiff is self-represented, defendant's counsel, shall serve

1 this Order on any parties who first appear after the date of this Order and to parties who
2 are known to exist but have not yet entered appearances.

3 **5. Disclosures to Clients**

4 Counsel are ordered to deliver to their respective clients a copy of this Order and
5 of the Court's Scheduling and Case Management Order, which will set forth the schedule
6 that the Court establishes at the Scheduling Conference.

7 **IT IS SO ORDERED.**

8

JOHN A. KRONSTADT
UNITED STATES DISTRICT JUDGE

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT C-1

SCHEDULE A TO ORDER SETTING RULE 16(b)/26(f) SCHEDULING CONFERENCE:

SCHEDULE OF PRETRIAL AND TRIAL DATES FOR:

1. CIVIL CASES
2. PATENT CASES
3. ERISA CASES
4. TRIAL DATES FOR ALL CASES

EXHIBIT A – SCHEDULE OF PRETRIAL AND TRIAL DATES FOR CIVIL CASES

Case No.:			
Case Name:			
Deadlines:	Plaintiff(s) Request	Defendant(s) Request	Court Order
Last Date to Add Parties/Amend Pleadings			
Non-Expert Discovery Cut-Off			
Expert Disclosure (Initial) <i>(2 weeks after non-expert discovery cut-off)</i>			
Expert Disclosure (Rebuttal) <i>(4 weeks after non-expert discovery cut-off)</i>			
Expert Discovery Cut-Off <i>(6 weeks after non-expert discovery cut-off)</i>			
Last Date to File All Motions (incl. discovery motions) <i>(6 weeks after non-expert discovery cut-off)</i>			
Settlement Procedure Selection: <i>(ADR-12 Form will be completed by Court after scheduling conference)</i>	Plaintiff(s) Request	Defendant(s) Request	Court Order
1. Magistrate Judge 2. Attorney Settlement Officer Panel 3. Outside ADR/Non-Judicial (Private)			
Last day to conduct settlement conference or mediation			
Notice of Settlement / Joint Report re Settlement <i>(First Friday following last day to conduct settlement conference or mediation)</i>			
Post Mediation Status Conference <i>(10 days after due date to file notice of settlement / joint report re settlement: Mondays at 1:30 pm)</i>			

Note: If necessary, counsel will be invited to submit proposed dates with respect to the final pretrial conference and trial date upon the Court's final ruling on all motions. The trial estimate will be set at the final pretrial conference.

EXHIBIT A – SCHEDULE OF PRETRIAL AND TRIAL DATES FOR PATENT CASES

Case No.:				
Case Name:				

Deadlines:	Weeks After Listed Event	Plaintiff(s) Request	Defendant(s) Request	Court Order
Infringement Contentions (S.P.R. 2.1, 2.2)	2 (After Order Setting Scheduling Conference)			
Early Meeting of the Parties, Initial Disclosures (S.P.R. 2.3)	4 (After Order Setting Scheduling Conference)			
Joint Rule 26(f) Report (S.P.R. 2.3)	10 days (Before Scheduling Conference Date)			
Scheduling Conference (S.P.R. 2.4)	[set by Court]			
Last Date to Add Parties/Amend Pleadings				
Invalidity Contentions (S.P.R. 2.5, 2.6)	2 (After Scheduling Conference)			
Exchange of Claim Terms (S.P.R. 3.1)	4 (After Scheduling Conference)			
Exchange Proposed Constructions and Evidence (S.P.R. 3.2)	6 (After Scheduling Conference)			
Complete Claim Construction Discovery (S.P.R. 3.3)	10 (After Scheduling Conference)			
Joint Markman Prehearing Statement (S.P.R. 3.4)	11 (After Scheduling Conference)			
Simultaneous Opening Markman Briefs (S.P.R. 3.5)	12 (After Scheduling Conference)			

1	Simultaneously	14 (After Scheduling			
2	Responding Markman	Conference)			
3	Briefs, Tutorials, and				
4	Presentation Materials				
5	(S.P.R. 3.5)				
6	Markman Hearing	17 (After Scheduling			
7	(S.P.R. 3.6)	Conference)			
8	Markman Decision	[set by Court]			
9	Patentee Files	4 (After Markman			
10	Final Infringement	Decision)			
11	Contentions, Expert				
12	Reports on issues				
13	Where Patentee has				
14	Burden of Proof, All				
15	Parties File Advice of				
16	Counsel Disclosures				
17	(S.P.R. 4.1, 4.4)				
18	Accused Infringer	8 (After Markman			
19	Files Final Invalidity	Decision)			
20	Contentions, Rebuttal				
21	Expert Reports, and				
22	Opening Expert				
23	Reports Where				
24	Accused Infringer has				
25	Burden of Proof				
26	(S.P.R. 4.2)				
27	Patentee's Rebuttal	12 (After Markman			
28	Expert Reports on	Decision)			
29	Issues Where Accused				
30	Infringer has Burden of				
31	Proof				
32	(S.P.R. 4.3)				
33	Discovery Cut-Off	16 (After Markman			
34	(S.P.R. 4.3)	Decision)			
35	Last Date to File All	20 (After Markman			
36	Motions	Decision)			
37	(S.P.R. 4.5)				

Note: If necessary, counsel will be invited to submit proposed dates with respect to the final pretrial conference and trial date upon the Court's final ruling on all motions. The trial estimate will be set at the final pretrial conference.

****CONTINUE TO NEXT PAGE FOR SETTLEMENT DATES****

Settlement Procedure Selection: <i>(ADR-12 Form will be completed by Court after scheduling conference)</i>	Plaintiff(s) Request	Defendant(s) Request	Court Order
1. Magistrate Judge 2. Attorney Settlement Officer Panel 3. Outside ADR/Non-Judicial (Private)			
Last day to conduct settlement conference or mediation			
Notice of Settlement / Joint Report re Settlement <i>(First Friday following last day to conduct settlement conference or mediation)</i>			
Post Mediation Status Conference <i>(10 days after due date to file notice of settlement / joint report re settlement: Mondays at 1:30 pm)</i>			

EXHIBIT A – SCHEDULE OF PRETRIAL AND TRIAL DATES FOR ERISA CASES

Case No.:			
Case Name:			
Hearings:	Plaintiff(s) Request	Defendant(s) Request	Court Order
Last Date to Add Parties/Amend Pleadings:			
Simultaneous Opening Briefs:			
Simultaneous Responsive Briefs:			
Court Trial/Hearing on Administrative Record: (Tuesday at 9:00 a.m.)			
Duration Estimate: ____ Days / ____ Weeks			
Settlement Procedure Selection: (ADR-12 Form will be completed by Court after scheduling conference)	Plaintiff(s) Request	Defendant(s) Request	Court Order
1. Magistrate Judge 2. Attorney Settlement Officer Panel 3. Outside ADR/Non-Judicial (Private)			
Last day to conduct settlement conference or mediation			
Notice of Settlement / Joint Report re Settlement (First Friday following last day to conduct settlement conference or mediation)			
Post Mediation Status Conference (10 days after due date to file notice of settlement / joint report re settlement: Mondays at 1:30 pm)			

EXHIBIT A – SCHEDULE OF DATES FOR CIVIL JURY TRIALS (After Court has ruled on all motions)

Case No.:	
Case Name:	

Settlement Procedure Selection:	Plaintiff(s) Request	Defendant(s) Request	Court Order
1. Magistrate Judge 2. Attorney Settlement Officer Panel 3. Outside ADR/Non-Judicial (Private)			
Last day to conduct settlement conference or mediation <i>(within 30 days of the Court's final ruling on all motions)</i>			
Notice of Settlement / Joint Report re Settlement <i>(1 week after last day to complete settlement)</i>			
Pretrial and Jury Trial Dates:	Plaintiff(s) Request	Defendant(s) Request	Court Order
Last day to file all pretrial documents and motions in limine <i>(2 weeks after last day to complete settlement)</i>			
Last day to file response to motions in limine <i>(3 weeks after last day to complete settlement)</i>			
Final Pretrial Conference, Status Conference re Disputed Exhibits, and Hearing on Motions in Limine <i>(4 weeks after last day to complete settlement: Monday at 1:30 pm)</i>			
Jury Trial <i>(6 weeks after last day to complete settlement: Tuesday at 9:00 a.m.)</i>			
Duration Estimate: ____ Days / ____ Weeks			

EXHIBIT A – SCHEDULE OF DATES FOR CIVIL COURT TRIALS (After Court has ruled on all motions)

Case No.:	
Case Name:	

Settlement Procedure Selection:	Plaintiff(s) Request	Defendant(s) Request	Court Order
1. Magistrate Judge 2. Attorney Settlement Officer Panel 3. Outside ADR/Non-Judicial (Private)			
Last day to conduct settlement conference or mediation (within 30 days of the Court's final ruling on all motions)			
Notice of Settlement / Joint Report re Settlement (1 week after last day to complete settlement)			
Pretrial and Jury Trial Dates:	Plaintiff(s) Request	Defendant(s) Request	Court Order
Last day to file all pretrial documents and direct testimony declarations (2 weeks after last day to complete settlement)			
Last day to file objections to direct testimony declarations (3 weeks after last day to complete settlement)			
Anticipated ruling on direct testimony declarations (4 weeks after last day to complete settlement)			
Final Pretrial Conference and Status Conference re Disputed Exhibits (4 weeks after last day to complete settlement: Monday at 1:30 pm)			
Court Trial (6 weeks after last day to complete settlement: Tuesday at 9:00 a.m.)			
Duration Estimate: ____ Days / ____ Weeks			

1

EXHIBIT D

2

ORDER RE JURY/COURT TRIAL FOR CASES ASSIGNED TO JUDGE JOHN A.
KRONSTADT

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

Plaintiff's Name(s),

Plaintiff(s),

vs.

Defendant's Name(s),

Defendant(s).

Case No.: _____ JAK (x)

**ORDER RE JURY/COURT TRIAL FOR
CASES ASSIGNED TO JUDGE JOHN A.
KRONSTADT**

A. SCHEDULING

1. In General: The last day for hearing on any motion to join other parties or to amend the pleadings shall be specified in the Scheduling Order. All unserved parties shall be dismissed no later than the date set for the Final Pretrial Conference.

2. Motions for Summary Judgment or Partial Summary Judgment: Motions for Summary Judgment or Partial Summary Judgment shall be heard no later than the last day for hearing motions, as set forth in the Scheduling Order.

3. Settlement Procedures: It is the policy of the Court to encourage disposition of civil litigation by settlement when such is in the best interest of the parties. The Court any favors reasonable means to accomplish this goal. Pursuant to [Local Rule 16-15](#), in every civil case, the parties shall select a settlement procedure. If counsel have received a Notice to Parties of Court-Directed ADR Program (Form ADR-08), the case presumptively

1 will be referred to the Court Mediation Panel or to private mediation. See [General Order](#)
 2 [11-10, § 5.1](#) and [Local Rule 26-1\(c\)](#). The Court will discuss the proposed ADR procedure
 3 with the parties at the time of the Scheduling Conference and will issue the ADR-12 form
 4 once the settlement method is selected. For information about the Court's ADR Program,
 5 review [General Order 11-10](#), which is located on the "ADR" page of the Court's website.

6 **4. Discovery Cut-Off:** The Scheduling Order establishes a cut-off date for
 7 discovery in this action. This is not the date by which discovery requests must be served;
 8 it is the date by which all discovery is to be completed. The Court will not approve
 9 stipulations between counsel that permit responses to be served after the cut-off date,
 10 except in extraordinary circumstances.

11 **5. Discovery Motions:** Any motion with respect to the inadequacy of responses
 12 to discovery must be heard by the date set for the last day to hear motions. Whenever
 13 possible, the Court expects counsel to resolve discovery issues among themselves in a
 14 courteous, reasonable and professional manner. Thus, the Court expects that counsel will
 15 strictly adhere to the Civility and Professional Guidelines adopted by the United States
 16 District Court for the Central District of California.

17 **B. FINAL PRETRIAL CONFERENCE**

18 This case has been placed on the calendar for a Final Pretrial Conference
 19 pursuant to Fed. R. Civ. P. 16. Strict compliance with the requirements of the Federal
 20 Rules of Civil Procedure and the Local Rules is mandatory. Counsel shall file carefully
 21 prepared Memoranda of Contentions of Fact and Law (which may also serve as the
 22 parties' respective trial briefs) and a Final Pretrial Conference Order in accordance with
 23 the provisions of [Local Rules 16-4 and 16-7](#). The Memoranda of Contentions of Fact and
 24 Law will be served no later than twenty-one (21) days before the Pretrial Conference.
 25 The Final Pretrial Conference Order will be lodged no later than fourteen (14) days before
 26 the Final Pretrial Conference. The form of the Final Pretrial Conference Order will be in
 27 the form set forth in [Appendix A](#) to the Local Rules.

28 \\\

1 **C. PREPARATION FOR TRIAL**

2 The Court ORDERS that all counsel comply with the following rules in their
3 preparation for trial:

4 **1. Motions In Limine:** All motions in limine will be heard at the Final Pretrial
5 Conference. The purpose of these motions is to alert the Court to significant evidentiary
6 issues that can be addressed and resolved prior to trial. All motions in limine must be
7 e-filed fourteen (14) calendar days before the Final Pretrial Conference and served in
8 compliance with [Local Rule 6-1](#). Any oppositions shall be e-filed no later than seven (7)
9 calendar days before the Final Pretrial Conference and not exceed ten (10) pages. The
10 Court will permit oral argument on motions in limine and, therefore, a reply is not required.
11 A proposed order is not required to be e-filed with the motion(s).

12 **2. Statement of the Case (Jury Trials):** Counsel shall meet and confer twenty-
13 one (21) calendar days prior to the Final Pretrial Conference to determine if, in lieu of
14 a Joint Statement of the Case, they will stipulate to having each side make a brief (less
15 than five minute) mini-opening statement to the panel of prospective jurors prior to the
16 commencement of voir dire. Such mini-opening statements are not to be argument, but
17 rather a summary of the evidence that each side intends to present. If all parties do not
18 stipulate to the use of mini-opening statements, they shall meet and confer and seek to
19 reach agreement on a Joint Statement of the Case to be read by the Court to the panel
20 of prospective jurors prior to the commencement of voir dire. Counsel shall file the joint
21 statement of the case no later than fourteen (14) calendar days prior to the Final Pretrial
22 Conference. If the parties cannot agree on such a joint statement, they shall file a
23 "Disputed Joint Statement of the Case," which shall include each party's respective
24 proposed statement, together with a "redline" comparing the parties' respective statements.
25 The parties shall deliver a courtesy copy pursuant to [Local Rule 5-4.5](#). A final version of
26 the joint statement shall be provided to the Court on the first day of trial.

27 **3. Voir Dire (Jury Trials):** Counsel may submit proposed voir dire questions that
28 are unique to the particular trial. Each party may submit their respective questions fourteen

1 (14) calendar days prior to the Final Pretrial Conference.

2 **4. Witness Lists:** A witness list shall be prepared in compliance with [Local Rule](#)
3 [16-5](#) and shall be filed no later than fourteen (14) calendar days prior to the Final Pretrial
4 Conference. Counsel shall submit the names of the witnesses in the order that they are
5 expected to testify, and will provide, to the extent possible, an accurate estimate of the
6 time needed for each witness for direct, cross, redirect and re-cross. Counsel will also
7 provide a brief summary of each witness' testimony. If more than one witness is offered
8 on the same subject, the summary should be sufficiently detailed to allow the Court to
9 determine if the testimony is cumulative.

10 Counsel shall set forth the information about the amount of time that is expected
11 for the testimony of each witness on a jointly-prepared document with five columns:

12 (i) name of the witness; (ii) estimated time for direct examination (in hours, with portions
13 thereof stated in decimal form, e.g., "1.5 hours," if the estimate is for one hour and 30
14 minutes); (iii) estimated time for cross-examination; (iv) estimated time for re-direct
15 examination; and (v) total time for the witness. At the bottom of each page the total time
16 for all witnesses on that page shall be stated, with the grand total of all time stated on
17 the final page of the chart.

18 At the time of trial, counsel shall provide three (3) copies of the witness lists in the
19 order in which the witnesses will be called to testify and three (3) copies of witness lists in
20 alphabetical order.

21 **5. Jury Instructions:** In a jury trial, jury instructions are to be filed no later than
22 fourteen (14) calendar days prior to the Final Pretrial Conference. The parties shall make
23 every attempt to agree upon jury instructions before submitting proposals to the Court.
24 The Court prefers Ninth Circuit model instructions. Counsel shall exchange proposed
25 jury instructions (general and special) twenty-eight (28) calendar days prior to the Final
26 Pretrial Conference. Counsel shall exchange any objections to the instructions twenty-one
27 (21) calendar days prior to the Final Pretrial Conference. Counsel shall meet and confer
28 with the goal of reaching an agreement on one set of joint jury instructions, which shall be

1 filed no later than fourteen (14) calendar days before the Final Pretrial Conference. If the
 2 parties disagree over any proposed jury instruction(s), the parties shall file: (i) one set of
 3 proposed jury instructions to which all parties agree; and (ii) one set of disputed jury
 4 instructions, which shall include a “redline” of any disputed language and/or the factual
 5 or legal basis for each party’s respective position as to each disputed instruction. Where
 6 appropriate, the disputed instructions shall be organized by subject, so that the instructions
 7 that address the same or similar issues are presented sequentially. The parties shall
 8 deliver a courtesy copy of these documents pursuant to [Local Rule 5-4.5](#). A final “clean”
 9 version of the jury instructions, which shall include the pre-instructions and the text of
 10 each instruction (eliminating titles, supporting authority, indication of party proposing, etc.)
 11 shall be provided to the Court on the first day of trial and sent via email in either Word or
 12 Word Perfect to the Court’s Chambers’ email at: jak_chambers@cacd.uscourts.gov.

13 **6. Verdict Form(s) in Jury Trials:** The parties shall make every attempt to
 14 agree upon a verdict form before submitting proposals to the Court. Counsel shall file a
 15 proposed verdict form(s) no later than fourteen (14) calendar days prior to the Final Pretrial
 16 Conference. If the parties are unable to agree on a verdict form, the parties shall file one
 17 document titled “Competing Verdict Forms” which shall include: (i) the parties’ respective
 18 proposed verdict form; (ii) a “redline” of any disputed language; and (iii) the factual or
 19 legal basis for each party’s respective position if the entire form is being disputed. The
 20 parties shall deliver a courtesy copy of these documents pursuant to [Local Rule 5-4.5](#).
 21 A final version of the verdict form shall be provided to the Court on the first day of trial
 22 and sent via email in either Word or Word Perfect to the Court’s Chambers’ email at:
 23 jak_chambers@cacd.uscourts.gov.

24 **7. Exhibits:**

25 **a. Exhibit List:** A joint exhibit list will be prepared in compliance
 26 with the example below and [Local Rule 16-6](#).

27 \\\

28 \\\

<u>JOINT EXHIBIT LIST</u>					
Case Name:					
Case Number:					
No. of Exhibit	Description	Stip. to Authen.	Stip. to Admiss.	Date Identified	Date Admitted

Lead trial counsel shall meet and confer at least twenty-one (21) calendar days before the Final Pretrial Conference to discuss and seek to agree, to the extent possible, on issues including foundation, and admissibility of proposed exhibits. A joint exhibit list, the format of which shall comply with [Local Rule 16-6.1](#), shall be filed fourteen (14) calendar days prior to the Final Pretrial Conference. Counsel shall file a "Notice of Disputed Exhibits," if applicable, which shall set forth the basis for any disputed exhibit(s). Counsel shall confer so that there are no duplicate exhibits.

b. Exhibit Preparation: One (1) original (witness copy) and one (1) copy (bench copy) shall be presented to the Courtroom Deputy Clerk on the first day of trial. The exhibits shall be presented in a binder. Each binder shall be clearly labeled on the spine to include the case name, party and volume number. The Court does not require specific exhibit tags so long as each document is date-stamped and separated with a divider that is numbered. Each party shall use a different number sequence and shall comply with [Local Rule 26-3](#).

c. Voluminous Trial Exhibits/Materials: Arrangements for bringing voluminous trial materials or exhibits into the Courtroom through the Building Vehicle Loading Dock, if required, may be made through the Space & Facilities Help Desk at 213-894-1400. Before contacting Space & Facilities for a required security pass, prior approval of delivery time must be coordinated with the Courtroom Deputy Clerk. Once approval from the Clerk is received, logistical delivery information must be provided to Space & Facilities no later than 48 hours of the date of arrival to create and issue the required security pass. Counsel and messengers attempting to access the building parking

1 and loading dock without a required pass will be denied entry.

2 **8. (Court Trials): Findings of Fact and Conclusions of Law; Declarations:**

3 For any matter requiring findings of fact and conclusions of law, counsel for each party
 4 shall lodge and serve proposed findings of fact and conclusions of law as promptly as
 5 possible in compliance with [Local Rule 52](#). In addition, counsel must submit electronic
 6 versions (in Word or Word Perfect) to the Court at the following email address:
 7 jak_chambers@cacd.uscourts.gov. When ordered by the Court in a particular case, each
 8 party shall, at least twenty-one (21) calendar days prior to the Final Pretrial Conference,
 9 file declarations containing the direct testimony of each witness whom that party intends
 10 to call at trial. If such declarations are filed, each party shall file any evidentiary objections
 11 to the declaration(s) submitted by any other party at least fourteen (14) calendar days
 12 prior to the Final Pretrial Conference. If any party submits such objections, they shall
 13 be submitted in the following three-column format: (i) the left column should contain a
 14 verbatim quote of each statement objected to (including page and line number); (ii) the
 15 middle column should set forth a concise objection (e.g., hearsay, lacks foundation, etc.)
 16 with a citation to the Federal Rules of Evidence or, where applicable, a case citation; and
 17 (iii) the right column should provide space for the Court's entry of its ruling on the objection.
 18 The Court anticipates issuing its ruling on the objections the same date as the date
 19 scheduled for the Final Pretrial Conference. Counsel shall refer to the Court's Initial
 20 Standing Order and Exhibit F for the proper format.

21 **9. Notice to Court Reporter re Uncommon and/or Scientific Terms:** At least
 22 one week before trial, the parties must confer and file a glossary of terms for the court
 23 reporter that includes applicable medical, scientific, or technical terms, gang terms,
 24 slang, the names and spellings of names likely to be cited, and any other case-specific
 25 terminology.

26 **D. ATTORNEY AND PARTY CONDUCT AT TRIAL**

27 **1. Trial Schedule:** Trials are generally conducted Tuesday through Friday.
 28 The Court will adopt a particular time schedule on a case-by-case basis. In general,

1 the schedule will be either: (i) from 8:30 a.m. to 2:30 p.m. with two or three 20-minute
2 breaks; or (ii) from 9:00 a.m. to 4:00 p.m., with a 15-minute break in both the morning and
3 the afternoon, and a one-hour lunch break. This schedule may be changed for each trial
4 and during each trial depending on the scheduling needs of jurors, witnesses, counsel
5 or the Court.

6 **2. Trial Conduct:**

7 **a. Jury Selection**

8 1. The Court will seat as prospective jurors the same number
9 of jurors who will serve at trial. The Court will conduct voir dire of this panel, which may
10 include questions proposed by counsel both prior to trial and during the voir dire process.
11 After any potential juror is excused for cause, a replacement juror will be placed in the
12 vacant seat and will respond to voir dire. Once a panel is in place to which there are no
13 remaining or unadjudicated "for cause" challenges, counsel for each side will be permitted
14 to exercise their respective peremptory challenge(s) through the Court. Upon the exercise
15 of a peremptory challenge, a replacement juror will be seated, will respond to voir dire and
16 will be subject to a "for cause" challenge before any remaining peremptory challenge is
17 exercised.

18 **b. Opening Statements, Examining Witnesses, and Summation**

19 1. At the end of each day, counsel presenting his or her case
20 shall advise opposing counsel of the witnesses expected to testify the following day with
21 an estimate of the length of direct examination for each witness. Opposing counsel shall
22 provide an estimate of the length of cross-examination for each witness. Cooperation
23 of counsel will ensure an efficient trial process. It is the responsibility of all counsel to
24 arrange the appearance of witnesses in order to avoid delay.

25 2. Opening statements, examination of witnesses and
26 summation will be from the lectern only. Counsel should not spend an unreasonable
27 amount of time writing out words or drawing charts or diagrams. Counsel may do so in
28 advance and explain that the item was prepared earlier to save time as ordered by the

1 Court.

2 3. The Court will honor reasonable time estimates for opening
3 and closing presentations to the jury.

4 4. In jury trials, where a party has more than one lawyer, only
5 one may conduct the direct or cross-examination of a given witness.

6 5. If a witness is on the stand when a recess is taken, it is
7 counsel's duty to have the witness back on the stand, ready to proceed, when the trial
8 resumes.

9 6. If a witness was on the stand at adjournment, it is counsel's
10 duty to have the witness adjacent to, but not on, the stand, ready to proceed when the
11 trial resumes.

12 7. It is counsel's duty to notify the Courtroom Deputy Clerk in
13 advance if any witness should be accommodated in an appropriate manner due to any
14 disability or other physical need.

15 8. The Court attempts to accommodate physicians, scientists
16 and all other professional witnesses and will, except in extraordinary circumstances,
17 permit them to testify out of order. The Court may do the same with respect to non-party
18 witnesses who have work or family commitments. Counsel must anticipate any such
19 possibility and discuss it with opposing counsel. If there is objection to having a particular
20 witness called out of order, counsel shall confer with the Court in advance.

21 **c. Objections and General Decorum**

22 1. When objecting, counsel must stand to state the objection
23 and state only that counsel objects and the legal ground for objection. If counsel wishes
24 to argue an objection further, counsel must ask for permission to do so; the Court may or
25 may not grant a request for conference at sidebar. The Court strongly discourages the
26 excessive use of sidebars because this is inefficient. Instead, evidentiary issues should be
27 anticipated in advance of trial and should be addressed through motions in limine and/or
28 in connection with the rulings on exhibits.

1 trials, no exhibit shall be read or displayed to the jury until admitted absent a pre-trial
2 stipulation by counsel or a ruling by the Court.

3 5. Absent unusual circumstances, counsel must not ask
4 witnesses to draw charts or diagrams nor ask the Court's permission for a witness to do
5 so. If counsel wishes to question a witness in connection with graphic aids, the material
6 must be fully prepared before the court session starts.

7 **e. Depositions**

8 1. All depositions that will be used in the trial, either as evidence
9 or for impeachment, must be signed and lodged with the Courtroom Deputy Clerk on the
10 first day of trial or such earlier date as the Court may order. For any deposition in which
11 counsel is interested, counsel should check with the Courtroom Deputy Clerk to confirm
12 that the Courtroom Deputy Clerk has the transcript and that the transcript is properly
13 signed.

14 2. In using depositions for impeachment, counsel shall first
15 announce both the beginning and ending page and line references of the passage desired
16 to be read, and allow opposing counsel an opportunity to state any objection. If an
17 objection is made, counsel shall await a ruling before proceeding. In addition, counsel
18 who has not requested the reading shall advise the Court whether counsel requests
19 a ruling as to any objection(s) made on the record or reserved during the deposition
20 testimony at issue. In reading deposition testimony, counsel shall use one of the following
21 procedures:

22 a. If counsel wishes to read the questions and answers
23 as alleged impeachment and ask the witness no further questions on that subject, counsel
24 may merely read the relevant portions of the deposition into the record.

25 b. If counsel wishes to ask the witness further questions
26 on the subject matter (this does not include a question whether the witness's testimony
27 has changed between deposition and trial) the deposition is placed in front of the witness
28 and the witness is told to read silently the pages and lines involved. Then counsel may

1 either ask the witness further questions on the matter and thereafter read the quotations
2 or read the quotations and thereafter ask further questions. Counsel should have an extra
3 copy of the deposition for this purpose.

4 3. Where a witness is absent and the witness' testimony is
5 offered by deposition, please observe the following procedure. A reader should occupy
6 the witness chair and read the testimony of the witness while the examining lawyer asks
7 the questions.

8 **f. Advance Notice of Evidentiary or Difficult Questions**

9 1. If during trial, counsel has reason to anticipate that a difficult
10 and unexpected question of law or evidence will raise legal argument, requiring research
11 and/or briefing, counsel must give the Court advance notice. Counsel are directed to
12 notify the Courtroom Deputy Clerk at the day's adjournment if an unexpected legal issue
13 arises that could not have been foreseen and addressed by a motion in limine (see Fed.
14 R. Evid. 103). To the maximum extent possible, such matters shall be taken outside
15 normal trial hours (e.g., recess, before or after the trial day).

16 **IT IS SO ORDERED.**

17 _____
18 JOHN A. KRONSTADT
19 UNITED STATES DISTRICT JUDGE
20
21
22
23
24
25
26
27
28

1

2

EXHIBIT E

3

STANDING PROTECTIVE ORDER FOR PATENT CASES
ASSIGNED TO JUDGE JOHN A. KRONSTADT

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

Plaintiff's Name(s),

Plaintiff(s),

vs.

Defendant's Name(s),

Defendant(s).

Case No.: _____ JAK (x)

**STANDING PROTECTIVE ORDER FOR
PATENT CASES ASSIGNED TO JUDGE
JOHN A. KRONSTADT**

**NOTE: SUBMISSION OF A DOCUMENT APPEARING TO BE THIS FORM
SHALL BE A CERTIFICATION THAT IT IS THIS FORM UNLESS CLEARLY NOTED
OTHERWISE IN THE TITLE ABOVE WITH THE WORD “(MODIFIED).” COUNSEL
SHALL ADHERE TO THE ASSIGNED MAGISTRATE JUDGE’S REQUIREMENTS
WITH RESPONSE TO THE PREPARATION OF PROTECTIVE ORDERS FOR ALL
NON-PATENT CASES.**

1. PURPOSE AND LIMITS OF THIS ORDER

Discovery in this action is likely to involve confidential, proprietary or private
information requiring special protection from public disclosure and from use for any
purpose other than this litigation. Thus, the Court enters this Protective Order. This Order
does not confer blanket protections on all disclosures or responses to discovery, and the
protection it gives from public disclosure and use extends only to the specific material

1 entitled to confidential treatment under the applicable legal principles. This Order does
2 not automatically authorize the filing under seal of material designated under this Order.
3 Instead, the parties must comply with [Local Rule 7-5.1](#) and this Order if they seek to file
4 anything under seal. This Order does not govern the use at trial of material designated
5 under this Order.

6 **2. DESIGNATING PROTECTED MATERIAL**

7 **2.1 Over-Designation Prohibited.** Any party or non-party who designates
8 information or items for protection under this Order as “CONFIDENTIAL,” “HIGHLY
9 CONFIDENTIAL - ATTORNEY EYES ONLY,” or “HIGHLY CONFIDENTIAL - SOURCE
10 CODE” (a “designator”) must only designate specific material that qualifies under the
11 appropriate standards. To the extent practicable, only those parts of documents, items or
12 oral or written communications that require protection shall be designated. Designations
13 with a higher confidentiality level when a lower level would suffice are prohibited. Mass,
14 indiscriminate, or routinized designations are prohibited. Unjustified designations expose
15 the designator to sanctions, including the Court’s striking all confidentiality designations
16 made by that designator. Designation under this Order is allowed only if the designation
17 is necessary to protect material that, if disclosed to persons not authorized to view it,
18 would cause competitive or other recognized harm. Material may not be designated if it
19 has been made public, or if designation is otherwise unnecessary to protect a secrecy
20 interest. If a designator learns that information or items that it designated for protection
21 do not qualify for protection at all or do not qualify for the level of protection initially
22 asserted, that designator must promptly notify all parties that it is withdrawing the
23 mistaken designation.

24 **2.2 Manner and Timing of Designations.** Designation under this Order
25 requires the designator to affix the applicable legend (“CONFIDENTIAL,” “HIGHLY
26 CONFIDENTIAL - ATTORNEY EYES ONLY,” or “HIGHLY CONFIDENTIAL - SOURCE
27 CODE”) to each page that contains protected material. For testimony given in deposition
28 or other proceeding, the designator shall specify all protected testimony and the level

1 of protection being asserted. It may make that designation during the deposition or
2 proceeding, or may invoke, on the record or by written notice to all parties on or before
3 the next business day, a right to have up to 21 days from the deposition or proceeding
4 to make its designation.

5 **2.2.1** A party or non-party that makes original documents or materials
6 available for inspection need not designate them for protection until after the inspecting
7 party has identified which material it would like copied and produced. During the inspection
8 and before the designation, all material shall be treated as HIGHLY CONFIDENTIAL -
9 ATTORNEY EYES ONLY. After the inspecting party has identified the documents it wants
10 copied and produced, the producing party must designate the documents, or portions
11 thereof, that qualify for protection under this Order.

12 **2.2.2** Parties shall give advance notice if they expect a deposition or other
13 proceeding to include designated material so that the other parties can ensure that only
14 authorized individuals are present at those proceedings when such material is disclosed
15 or used. The use of a document as an exhibit at a deposition shall not in any way affect
16 its designation. Transcripts containing designated material shall have a legend on the title
17 page noting the presence of designated material, and the title page shall be followed by a
18 list of all pages (including line numbers as appropriate) that have been designated, and
19 the level of protection being asserted. The designator shall inform the court reporter of
20 these requirements. Any transcript that is prepared before the expiration of the 21-day
21 period for designation shall be treated during that period as if it had been designated
22 HIGHLY CONFIDENTIAL - ATTORNEY EYES ONLY unless otherwise agreed. After the
23 expiration of the 21-day period, the transcript shall be treated only as actually designated.

24 **2.3 Inadvertent Failures to Designate.** An inadvertent failure to designate
25 does not, standing alone, waive protection under this Order. Upon timely assertion or
26 correction of a designation, all recipients must make reasonable efforts to ensure that
27 the material is treated according to this Order.

28 \\\

1 **3. CHALLENGING CONFIDENTIALITY DESIGNATIONS**

2 All challenges to confidentiality designations shall proceed under [Local Rule 37-1](#)
3 through [Local Rule 37-4](#).

4 **4. ACCESS TO DESIGNATED MATERIAL**

5 **4.1 Basic Principles.** A receiving party may use designated material only
6 for this litigation. Designated material may be disclosed only to the categories of persons
7 and under the conditions described in this Order.

8 **4.2 Disclosure of CONFIDENTIAL Material Without Further Approval.**

9 Unless otherwise ordered by the Court or permitted in writing by the designator, a receiving
10 party may disclose any material designated CONFIDENTIAL only to:

11 **4.2.1**The receiving party's outside counsel of record in this action and
12 employees of outside counsel of record to whom disclosure is reasonably necessary;

13 **4.2.2**The officers, directors, and employees of the receiving party to whom
14 disclosure is reasonably necessary, and who have signed the Agreement to Be Bound
15 (Exhibit E-1);

16 **4.2.3**Experts retained by the receiving party's outside counsel of record to
17 whom disclosure is reasonably necessary, and who have signed the Agreement to Be
18 Bound (Exhibit E-1);

19 **4.2.4**The Court and its personnel;

20 **4.2.5**Outside court reporters and their staff, professional jury or trial
21 consultants, and professional vendors to whom disclosure is reasonably necessary, and
22 who have signed the Agreement to Be Bound (Exhibit E-1);

23 **4.2.6**During their depositions, witnesses in the action to whom disclosure is
24 reasonably necessary and who have signed the Agreement to Be Bound (Exhibit E-1); and

25 **4.2.7**The author or recipient of a document containing the material, or a
26 custodian or other person who otherwise possessed or knew the information.

27 **4.3 Disclosure of HIGHLY CONFIDENTIAL - ATTORNEY EYES ONLY**
28 **and HIGHLY CONFIDENTIAL - SOURCE CODE Material Without Further Approval.**

1 Unless permitted in writing by the designator, a receiving party may disclose material
 2 designated HIGHLY CONFIDENTIAL - ATTORNEY EYES ONLY or HIGHLY
 3 CONFIDENTIAL - SOURCE CODE without further approval only to:

4 **4.3.1** The receiving party's outside counsel of record in this action and
 5 employees of outside counsel of record to whom it is reasonably necessary to disclose
 6 the information;

7 **4.3.2** The Court and its personnel;

8 **4.3.3** Outside court reporters and their staff, professional jury or trial
 9 consultants, and professional vendors to whom disclosure is reasonably necessary, and
 10 who have signed the Agreement to Be Bound (Exhibit E-1); and

11 **4.3.4** The author or recipient of a document containing the material, or a
 12 custodian or other person who otherwise possessed or knew the information.

13 **4.4 Procedures for Approving or Objecting to Disclosure of HIGHLY**
 14 **CONFIDENTIAL - ATTORNEY EYES ONLY or HIGHLY CONFIDENTIAL - SOURCE**
 15 **CODE Material to In-House Counsel or Experts.** Unless agreed to in writing by the
 16 designator:

17 **4.4.1** A party seeking to disclose to in-house counsel any material designated
 18 HIGHLY CONFIDENTIAL - ATTORNEY EYES ONLY must first make a written request
 19 to the designator providing the full name of the in-house counsel, the city and state of
 20 such counsel's residence, and such counsel's current and reasonably foreseeable future
 21 primary job duties and responsibilities in sufficient detail to determine present or potential
 22 involvement in any competitive decision-making. In-house counsel are not authorized to
 23 receive material designated HIGHLY CONFIDENTIAL - SOURCE CODE.

24 **4.4.2** A party seeking to disclose to an expert retained by outside counsel of
 25 record any information or item that has been designated HIGHLY CONFIDENTIAL -
 26 ATTORNEY EYES ONLY or HIGHLY CONFIDENTIAL - SOURCE CODE must first make
 27 a written request to the designator that (1) identifies the general categories of HIGHLY
 28 CONFIDENTIAL - ATTORNEY EYES ONLY or HIGHLY CONFIDENTIAL - SOURCE

CODE information that the receiving party seeks permission to disclose to the expert, (2) sets forth the full name of the expert and the city and state of his or her primary residence, (3) attaches a copy of the expert's current resume, (4) identifies the expert's current employer(s), (5) identifies each person or entity from whom the expert has received compensation or funding for work in his or her areas of expertise (including in connection with litigation) in the past five years, and (6) identifies (by name and number of the case, filing date, and location of court) any litigation where the expert has offered expert testimony, including by declaration, report or testimony at deposition or trial, in the past five years. If the expert believes any of this information at (4) - (6) is subject to a confidentiality obligation to a third party, then the expert should provide whatever information the expert believes can be disclosed without violating any confidentiality agreements, and the party seeking to disclose the information to the expert shall be available to meet and confer with the designator regarding any such confidentiality obligations.

4.4.3 A party that makes a request and provides the information specified in paragraphs 4.4.1 or 4.4.2 may disclose the designated material to the identified in-house counsel or expert unless, within seven days of delivering the request, the party receives a written objection from the designator providing detailed grounds for the objection.

4.4.4 All challenges to objections from the designator shall proceed under [Local Rule 37-1](#) through [Local Rule 37-4](#).

5. SOURCE CODE

5.1 Designation of Source Code. If production of source code is necessary, a party may designate it as HIGHLY CONFIDENTIAL - SOURCE CODE if it is, or includes, confidential, proprietary, or trade secret source code.

5.2 Location and Supervision of Inspection. Any HIGHLY CONFIDENTIAL - SOURCE CODE produced in discovery shall be made available for inspection, in a format allowing it to be reasonably reviewed and searched, during normal

1 business hours or at other mutually agreeable times, at an office of the designating party's
2 counsel or another mutually agreeable location. The source code shall be made available
3 for inspection on a secured computer in a secured room, and the inspecting party shall
4 not copy, remove or otherwise transfer any portion of the source code onto any recordable
5 media or recordable device. The designator may visually monitor the activities of the
6 inspecting party's representatives during any source code review, but only to ensure that
7 there is no unauthorized recording, copying or transmission of the source code.

8 **5.3 Paper Copies of Source Code Excerpts.** The inspecting party may
9 request paper copies of limited portions of source code that are reasonably necessary
10 for the preparation of court filings, pleadings, expert reports, other papers or for deposition
11 or trial. The designator shall provide all such source code in paper form, including Bates
12 numbers and the label "HIGHLY CONFIDENTIAL - SOURCE CODE."

13 **5.4 Access Record.** The inspecting party shall maintain a record of any
14 individual who has inspected any portion of the source code in electronic or paper form,
15 and shall maintain all paper copies of any printed portions of the source code in a secured,
16 locked area. The inspecting party shall not convert any of the information contained in
17 the paper copies into any electronic format other than for the preparation of a pleading,
18 exhibit, expert report, discovery document, deposition transcript, or other Court document.
19 Any paper copies used during a deposition shall be retrieved at the end of each day and
20 must not be left with a court reporter or any other unauthorized individual.

21 **6. PROTECTED MATERIAL SUBPOENAED OR ORDERED**
22 **PRODUCED IN OTHER LITIGATION**

23 **6.1 Subpoenas and Court Orders.** This Order in no way excuses non-
24 compliance with a lawful subpoena or court order. The purpose of the duties described in
25 this section is to alert the interested parties to the existence of this Order and to give the
26 designator an opportunity to protect its confidentiality interests in the court where the
27 subpoena or order issued.

28 ///

1 **6.2 Notification Requirement.** If a party is served with a subpoena or a
 2 court order issued in other litigation that compels disclosure of any information or items
 3 received by that party in this action and designated in this action as CONFIDENTIAL,
 4 HIGHLY CONFIDENTIAL - ATTORNEY EYES ONLY, or HIGHLY CONFIDENTIAL -
 5 SOURCE CODE, that party must do the following.

6 **6.2.1** Promptly notify the designator in writing. Such notification shall include
 7 a copy of the subpoena or court order.

8 **6.2.2** Promptly notify in writing the party who caused the subpoena or order
 9 to issue in the other litigation that some or all of the material covered by the subpoena or
 10 order is subject to this Order. Such notification shall include a copy of this Order.

11 **6.2.3** Cooperate with all reasonable procedures sought by the designator
 12 whose material may be affected.

13 **6.3 Wait For Resolution of Protective Order.** If the designator promptly
 14 seeks a protective order, the party served with the subpoena or court order shall not
 15 produce any information designated in this action as CONFIDENTIAL, HIGHLY
 16 CONFIDENTIAL - ATTORNEY EYES ONLY or HIGHLY CONFIDENTIAL - SOURCE
 17 CODE before a determination by the court where the subpoena or order issued, unless
 18 the party has obtained the designator's permission. The designator shall bear the burden
 19 and expense of seeking protection of its confidential material in that court.

20 **7. UNAUTHORIZED DISCLOSURE OF DESIGNATED MATERIAL**

21 If a receiving party learns that, by inadvertence or otherwise, it has disclosed
 22 designated material to any person or in any circumstance not authorized under this Order,
 23 it must immediately (1) notify in writing the designator of the unauthorized disclosures,
 24 (2) use its best efforts to retrieve all unauthorized copies of the designated material,
 25 (3) inform the person or persons to whom unauthorized disclosures were made of all
 26 the terms of this Order, and (4) use reasonable efforts to have such person or persons
 27 execute the Agreement to Be Bound (Exhibit E-1).

28 \\

1 **8. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE**
 2 **PROTECTED MATERIAL**

3 When a producing party gives notice that certain inadvertently produced material is
 4 subject to a claim of privilege or other protection, the obligations of the receiving parties
 5 are those set forth in Fed. R. Civ. P. 26(b)(5)(B). This provision is not intended to modify
 6 whatever procedure may be established in an e-discovery order that provides for
 7 production without prior privilege review pursuant to Fed. R. Evid. 502(d) and (e).

8 **9. FILING UNDER SEAL**

9 Without written permission from the designator or a Court order, a party may not file
 10 in the public record in this action any designated material. A party seeking to file under
 11 seal any designated material must comply with [Local Rule 79-5](#). Filings may be made
 12 under seal only pursuant to a court order authorizing the sealing of the specific material
 13 at issue. The fact that a document has been designated under this Order is insufficient to
 14 justify filing under seal. Instead, parties must explain the basis for confidentiality of each
 15 document sought to be filed under seal. Because a party other than the designator will
 16 often be seeking to file designated material, cooperation between the parties in preparing,
 17 and in reducing the number and extent of, requests for under seal filing is essential.
 18 Accordingly, counsel are ordered to meet and confer in person or by telephone at least
 19 seven (7) calendar days prior to the filing of an application wherein the basis for the
 20 sealing is that it has been deemed confidential by the other party. Not later than two (2)
 21 calendar days after the meet and confer process, the opposing party shall confirm whether
 22 such information shall be designated as confidential or whether it can be made available
 23 to the public. Such an application shall contain the dates and method by which the parties
 24 met and conferred otherwise it will be denied without prejudice to an amended application
 25 being filed after counsel have completed this process. If a **receiving party's** request
 26 to file designated material under seal pursuant to [Local Rule 79-5.1](#) is denied by the
 27 Court, then the receiving party **may file the material in the public record** unless
 28 (1) **the designator** seeks reconsideration within four (4) days of the denial, or (2) as

1 otherwise instructed by the Court. See supra 11., p. 18.

2 **10. FINAL DISPOSITION**

3 Within 60 days after the final disposition of this action, each party shall return
4 all designated material to the designator or destroy such material, including all copies,
5 abstracts, compilations, summaries and any other format reproducing or capturing
6 any designated material. The receiving party must submit a written certification to the
7 designator by the 60-day deadline that (1) identifies (by category, where appropriate) all
8 the designated material that was returned or destroyed, and (2) affirms that the receiving
9 party has not retained any copies, abstracts, compilations, summaries or any other format
10 reproducing or capturing any of the designated material. This provision shall not prevent
11 counsel from retaining an archival copy of all pleadings, motion papers, trial, deposition
12 and hearing transcripts, legal memoranda, correspondence, deposition and trial exhibits,
13 expert reports, attorney work product, and consultant and expert work product, even if
14 such materials contain designated material. Any such archival copies remain subject to
15 this Order.

16 IT IS SO ORDERED.

17 Dated:

18 _____
[NAME]
UNITED STATES DISTRICT/MAGISTRATE JUDGE

EXHIBIT E-1AGREEMENT TO BE BOUND

I, _____ [print or type full name], of _____
 [print or type full address], declare under penalty of perjury that I have read in its entirety
 and understand the Protective Order that was issued by the United States District Court
 for the Central District of California on _____ [date] in the case of _____ **[insert
 formal name of the case and the number and initials assigned to it by the court].**

I agree to comply with and to be bound by all the terms of this Protective Order, and I
 understand and acknowledge that failure to so comply could expose me to sanctions and
 punishment for contempt. I solemnly promise that I will not disclose in any manner any
 information or item that is subject to this Protective Order to any person or entity except
 in strict compliance with this Order.

I further agree to submit to the jurisdiction of the United States District Court for
 the Central District of California for the purpose of enforcing this Order, even if such
 enforcement proceedings occur after termination of this action.

I hereby appoint _____ [print or type full name] of
 _____ [print or type full address and telephone
 number] as my California agent for service of process in connection with this action or any
 proceedings related to enforcement of this Order.

Date: _____

City and State where sworn and signed: _____

Printed name: _____

[printed name]

Signature: _____

[signature]

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT F
FORMAT FOR EVIDENTIARY OBJECTIONS

EXHIBIT F: FORMAT FOR EVIDENTIARY OBJECTIONS

Declaration/Testimony of _____	Objection	Ruling
Example 1: Entire Declaration of John Smith Start of Deposition.....[1. Language subject to objection][2. Language subject to objection] [3. Language subject to objection] End of Declaration.	1. <i>E.g.</i> , Hearsay, cite. 2. <i>E.g.</i> , Lacks foundation, cite. 3. <i>E.g.</i> , Hearsay, cite.	1. Sustained/ Overruled 2. Sustained/ Overruled 3. Sustained/ Overruled

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT G

FORMAT OF SUMMARY CHART TO BE ATTACHED TO MOTIONS FOR ATTORNEY'S
FEES

EXHIBIT G: FORMAT FOR ATTORNEY'S FEES SUMMARY CHARTS**Table 1***Task 1: Motion to Dismiss*

Attorney	Rate	Hours	Fee
Attorney 1 (position)	\$XXX/hour	Total hours spent by Attorney 1 on Task 1	\$XXX
Attorney 2 (position)	\$XXX/hour	Total hours spent by Attorney 2 on Task 1	\$XXX
Fee Request for Task 1		Task 1 Sum	Task 1 Sum

<i>Task 2: Motion for Summary Judgment</i>			
Attorney	Rate	Hours	Fee
Attorney 1 (position)	\$XXX/hour	Total hours spent by Attorney 1 on Task 2	\$XXX
Attorney 2 (position)	\$XXX/hour	Total hours spent by Attorney 2 on Task 2	\$XXX
Fee Request for Task 2		Task 2 Sum	Task 2 Sum

Table 2

Attorney	Rate	HOURS BY TASK		TOTALS
<u>Attorney 1</u> (<u>position</u>)		Task	Total Hours Spent by Attorney on Task	Hours: Amount: \$
		i.e., Motion to Dismiss		
		Discovery		
		Deposition		
		Task 4		
		Task 5 (etc.)		
<u>Attorney 2</u> (<u>position</u>)		Motion for Summary Judgment		Hours: Amount: \$
		Travel		
		Task 3		
		Task 4		
		Task 5 (etc.)		
Total				Hours: Amount: \$

1 In addition to the summary tables, the party requesting fees shall submit, to the Chambers'
2 email at jak_chambers@cacd.uscourts.gov within 24 hours of filing, an Excel spreadsheet
3 that contains all time entries for which fees are sought. Those time entries should be
4 categorized by attorney and task in a manner that corresponds with the summary tables
5 provided. The information in Table 1 and Table 2 shall be separated in separate worksheets
6 within the Excel spreadsheet.
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28